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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

NANCY MARKHAM,

Plaintiff,

v.

CITY OF SURPRISE; MICHAEL  
 FRAZIER; and CHRISTOPHER TOVAR,

Defendants.

No. 2:15-cv-01696-SRB

**AFFIDAVIT OF GRETCHEN ARNOLD**



1 9. I have published a number of academic articles and presented in numerous  
2 fora on domestic violence.

3  
4 10. I have also engaged in research on alternative education and education  
5 focused on systems change. I received the Robert A. Johnston S. J. Award for Excellence in  
6 Undergraduate Teaching in the Social Sciences from St. Louis University.

7 11. I am currently a member of the National Women's Studies Association, the  
8 Midwest Sociologists for Women in Society, and Sociologists for Women in Society. I am  
9 also an editorial associate for the journal *Theory and Society*.

10  
11 12. I hold a B.A. in Sociology from Washington University in St. Louis and an  
12 M.A. and Ph.D. in Sociology from Boston University.

13 13. Most intimate partner violence involves heterosexual relationships in which a  
14 man commits abuse against his female partner. For that reason, I often refer to domestic  
15 violence victims as battered women, and vice-versa.

16  
17 14. Over the last five years, I have researched the impact of local nuisance  
18 property laws on domestic violence victims. In particular, I have studied the experiences of  
19 survivors of domestic violence who have come into contact with a nuisance property law in  
20 St. Louis when they or others call 911 in response to a domestic violence situation. I also  
21 studied police officers' and domestic violence advocates' conflicting interpretations of the  
22 nuisance property law's impact on domestic violence survivors.

23  
24 15. My research on nuisance ordinances has thus far been pursued in two phases.  
25 In the first phase of this research, I interviewed domestic violence advocates, as well as  
26 police and prosecutors in the city of St. Louis to find out what these professionals thought  
27 was the nuisance property law's impact on battered women. My findings are available in a  
28

1 paper that will be published in *Law and Social Inquiry*, a journal of the American Bar  
2 Foundation. Exhibit B, Gretchen Arnold and Megan Slusser, *Silencing Women's Voices:  
3 Battered Women and Nuisance Property Laws*, forthcoming in *Law & Social Inquiry*, Vol.  
4 40, no. 4 (2015).

5  
6 16. In the second phase of this research project, I interviewed battered women  
7 themselves to better understand the events that bring domestic violence victims into contact  
8 with nuisance laws, how the law is enforced, the ways in which it impacts their lives, and  
9 how they interpret this experience. I identified twenty-seven subjects for semi-structured  
10 qualitative interviews with the help of St. Louis area domestic violence and other social  
11 services organizations. To qualify, domestic violence must have been a predominant factor  
12 for an individual's involvement with the nuisance property law. My findings are detailed in  
13 a forthcoming paper, which is currently available in draft form. Exhibit C, Gretchen  
14 Arnold, *Do Nuisance Property Laws Harm Battered Women?*, unpublished manuscript.

15  
16  
17 17. While my work focuses in St. Louis, these types of nuisance property laws are  
18 prevalent throughout the country and have been studied elsewhere. For example, scholars at  
19 Harvard and Columbia Universities published a study of the Milwaukee, WI nuisance  
20 ordinance and found that domestic violence was the third most commonly cited nuisance  
21 offense, that the majority of property owners responded by evicting the victim of domestic  
22 violence, and that there was disproportionate enforcement of the ordinance in communities  
23 of color. Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences  
24 of Third-Party Policing for Inner-City Women*, 78 Am. Sociological Rev. 117, 131 (2013),  
25 [http://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr\\_0.pdf](http://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr_0.pdf). A  
26  
27 supplement to their paper also summarizes nuisance ordinances from 59 cities across the  
28

1 country but does not attempt to catalogue all existing nuisance ordinances.

2 18. My work has allowed me to identify patterns of enforcement and  
3 consequences for survivors that would be relevant in jurisdictions with similar local laws.  
4 This declaration describes my findings on the operation and consequences of nuisance  
5 property laws for survivors of domestic violence.  
6

7 19. I reviewed the Nuisance Policy adopted by the City of Surprise in Article III  
8 of the Surprise Municipal Code, which includes §105-104 on nuisance properties (“the  
9 Nuisance Property Section”) and §105-106 requiring crime free lease provisions (“the  
10 Crime Free Lease Section”), together the “Nuisance Policy,” as well as the Complaint filed  
11 by the Plaintiff, Nancy Markham.  
12

13 20. Based on this review, which is discussed below, I have determined that the  
14 Surprise Nuisance Policy is significantly similar to and in some ways more punitive than the  
15 nuisance property law in St. Louis. Consequently, the Surprise Nuisance Policy can be  
16 expected to have similar or more substantial negative impacts on domestic violence  
17 survivors as those described in St. Louis.  
18

19  
20 The Impact of Local Nuisance Ordinances on Domestic Violence Victims

21 21. In my forthcoming paper, *Do Nuisance Property Laws Harm Battered*  
22 *Women?*, I use evidence from interviews with domestic violence victims to assess how these  
23 laws work in practice, as well as how and why they negatively affect domestic violence  
24 victims’ lives.  
25

26 22. Long-form interviews with participants reveal that, by chilling domestic  
27 violence survivors’ ability to call the police or evicting them for doing so, these laws  
28 increase survivors’ vulnerability to further violence, homelessness, and other dangerous or

1 unstable living conditions. They also re-traumatize victims by treating them as if they, not  
2 the perpetrators of the crimes against them, are the problem.

3  
4 23. While nuisance property laws can have slightly different structures or content,  
5 most share three common features. First, they designate properties as “nuisances” based on  
6 an excess of 911 calls, criminal activity, or police responses to a property within a certain  
7 period of time. Second, nuisance laws list a number of different types of activity that  
8 qualify as a “nuisance,” often making no exception where the tenant of the property was the  
9 victim of, or could not control, the alleged nuisance activity. Third, nuisance laws require  
10 that property owners “abate the nuisance” or face penalties that can include fines, property  
11 forfeiture, or even incarceration. In response, property owners often direct the tenant to stop  
12 calling 911 and will ultimately evict the tenant to avoid sanctions under the nuisance law.  
13

14  
15 24. In the typical pattern of enforcement of these laws, a victim who has made  
16 multiple calls to 911 to report domestic violence is notified that further calls to the police  
17 could result in fines or eviction. Next, one of two things usually happens: 1) either the  
18 victim feels that she can no longer call the police due to threat of penalty and must face  
19 increased violence on her own, or 2) the victim, her children, or the neighbors call 911 to  
20 report another abusive incident and the victim faces eviction on this basis. Unfortunately,  
21 the impact of nuisance property laws does not end there, but rather sets off a chain of  
22 negative events that compounds the trauma of the domestic violence, enhances abusers’  
23 power over victims, and renders victims and their children even more vulnerable to further  
24 violence and poverty.  
25  
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27 25. The St. Louis nuisance property law and its enforcement follow this basic  
28 formula. The law defines a nuisance as “a continuing act or physical condition which is

1 made, permitted, allowed or continued by any person . . . which is detrimental to the safety,  
2 welfare or convenience of the inhabitants of the City.” St. Louis, Missouri Municipal Code  
3 §15.42.010.

4  
5 26. The ordinance construes nuisance behavior very broadly to include any  
6 activity that is considered a felony, misdemeanor, or ordinance violation under federal, state,  
7 or municipal law, and it states that a public nuisance exists whenever two instances of crime  
8 occur at a particular property within a 12-month period. St. Louis, Missouri Municipal  
9 Code §15.42.020. Once a property is deemed a public nuisance, the property owner is sent a  
10 cease and desist letter and informed that failure to abate the nuisance within thirty days can  
11 result in fines or property closure. The property owner may set up a joint meeting with a  
12 number of city officials to discuss the cause of the nuisance activity and develop a plan to  
13 abate it under the direction of City officials. As discussed further below, domestic violence  
14 survivors whose homes were the subject of a cease and desist letter were routinely evicted  
15 or informally forced to move from their property under these abatement processes.

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18 27. Even though the St. Louis ordinance does not explicitly define nuisance  
19 properties based on calls to the police, in practice, I found that the ordinance is usually  
20 triggered when there have been two or more calls to 911 reporting nuisance behavior at a  
21 specific address. Consequently, after learning about the nuisance property law, the vast  
22 majority of domestic violence victims I interviewed stopped calling 911 for fear of negative  
23 repercussions, including eviction.

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26 28. For many women, the police had been the sole means of protection from their  
27 abusers’ physical violence. Lack of access to these police services left them extremely  
28 vulnerable, with no recourse to further abuse. One survivor reported, “I’m barricading

1 myself more in the house, you know. Like put sticks and stuff behind the door and stuff  
2 because I don't want anybody coming in there. Then if they do, you know, I'll be scared to  
3 call the police or whatever." Others stated that they would avoid calling 911 if at all  
4 possible and would only be willing to call 911 in dire circumstances, which most described  
5 as life-or-death situations. This was the case even where a survivor was not the subject of  
6 active enforcement of the nuisance ordinance. Mere knowledge of the existence of a  
7 nuisance property law can chill crime victims' ability to seek police assistance.  
8

9  
10 29. As a result, nuisance property laws allow abusers to operate with impunity and  
11 can lead to escalated levels of violence because abusers feel that they will not be held  
12 accountable for the violence they perpetrate. By limiting victims' access to police services  
13 and threatening eviction if they seek such services, nuisance property laws magnify abusers'  
14 power to strip domestic violence victims of the ability to make decisions and take control  
15 over some of the most basic conditions of life, such as where and how they live.  
16

17 30. One survivor described such a situation, saying "[h]e punched me in my face  
18 and I fell over the chair, broke the chair. He tried to choke me to death, but somehow, some  
19 reason, I was able, where I had nails and try to scratch, to get him off of me, he's choking  
20 me. And I couldn't call the police. Everything that has been going on, can't call the police.  
21 So I think [my boyfriend] is taking advantage of that."  
22

23 31. Chilling the reporting of crime to the police can have far reaching effects that  
24 undermine law enforcement effectiveness and public safety as a whole. A number of  
25 survivors reported that they felt unable to call the police for any reason. As one woman  
26 stated, "If somebody breaks into my house, I feel like I can't call the police. I feel like I  
27 can't call for anything! I feel like I'm going to get in trouble for it. . . That's basically what  
28

1 the landlord told me. ‘If you call the police, you’re going to lose your apartment.’”

2           32. Another woman described how this chilling effect can be especially serious  
3 for those who live in high-crime areas or have medical problems, saying, “Well where I  
4 moved at, you cannot count on no police for help. If you getting abused, raped, stabbed,  
5 shot, you’re not allowed to call the police ‘cause they say it’s a nuisance law. But I feel if  
6 you need the police, you supposed to CALL the police, you know? But they said if we call  
7 the police, we was gonna get evicted from our homes. . . . And I have a daughter that has  
8 Crohn’s and is pregnant. And [the landlord] said I can’t call an ambulance because the  
9 police come with the ambulance. . . So I just don’t feel – We just in danger. If anything  
10 happen to us, we can’t call no police. We just got to deal with it. And I don’t think that’s  
11 right.”  
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14           33. Nuisance property laws’ chilling effect on reporting crime to the police  
15 conflicts with law enforcement’s best practices. Inhibiting survivors’ ability to reach out to  
16 the police and treating such calls or police response as a nuisance runs counter to reforms in  
17 domestic violence policing over the last three decades intended to address long-standing  
18 problems of police dismissiveness or victim-blaming that can deter survivors from coming  
19 forward and places them in greater danger. Police and other professionals are now trained  
20 to encourage people to call the police if they experience or witness domestic violence and to  
21 treat victims with sensitivity. Government policies that aim to strengthen law enforcement’s  
22 response to domestic violence include policies that specifically address the investigation,  
23 arrest, and prosecution of domestic violence offenses and federal housing protections that  
24 bar eviction of domestic violence victims based on the abuse committed against them, such  
25 as the Violence Against Women Act or the Fair Housing Act.  
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1           34. One survivor described the disconnect between the chilling effect of nuisance  
2 ordinances and the instructions crime victims are typically given by police. She felt unable  
3 to call police because she had already been evicted once under the nuisance property law on  
4 the basis of domestic violence, but ultimately the abuse became so severe that she called  
5 911. She explained the exchange saying, “I called the police and I said, ‘I just had to call  
6 the police because he caught me comin’ in or out of my apartment like three days in a row  
7 and jumped on me.’ I was all upset. I can’t take any more. I can’t even open my door to go  
8 out for work, and he’s attackin’ me. He’s hidin’ in the bushes. . . [The police officer] told  
9 me, ‘He jumped on you three days in a row and you’re just now callin’ us? Why didn’t you  
10 call the first day?’ And that’s when I told her, ‘I lost my apartment because of the nuisance  
11 law. I’m scared to call the police. That’s how I lost the other apartment, so I’m tryin’ not to  
12 call the police.’”

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16           35. Additionally, my studies indicate that the vantage point of law enforcement  
17 officials may lead police officers to misinterpret dynamics of abuse and misperceive  
18 survivors to be responsible for repeated incidents of domestic violence or uncooperative  
19 with law enforcement efforts to maintain order. Police and prosecutors that I interviewed  
20 use an incident-focused approach in which interactions with domestic violence victims  
21 focus on physical abuse, and their objective is to eliminate this problem. This limits the  
22 information that police receive about the victim’s situation beyond the immediate physical  
23 abuse, such as coercive or controlling elements of a relationship, that would influence a  
24 victim’s continued involvement with an abuser despite her desire to end the abuse.  
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27           36. Police, acting on incomplete information and misunderstandings about abused  
28 women, may thus punish the victim of abuse for her perceived role in it and further

1 discourage victims from coming forward.

2           37. Local nuisance laws can entrench these misperceptions and increase the risk to  
3 victims of reporting abuse.

4           38. Eviction is a looming and well-grounded fear for domestic violence survivors  
5 who live in jurisdictions with a local nuisance property law. At the time of their interviews,  
6 about half of the participants in my study had already been forced to move because of the  
7 nuisance property law. Many women were evicted as a direct result of too many 911 calls.  
8 Others were forced to move before a formal eviction action, or opted to move to avoid the  
9 negative consequences of a possible eviction.  
10

11           39. Regardless of whether the eviction was formal or informal, the nuisance  
12 property law operated to penalize victims of domestic violence for calling the police and had  
13 devastating impacts on their well-being and ability to access housing in the future.  
14

15           40. Many of the survivors who were evicted ended up homeless or in unstable  
16 living situations, often with their children. Some went to shelters (either battered women's  
17 shelters or general homeless shelters), some slept on friends' or relatives' couches, and  
18 some ended up in more dangerous living situations. For example, one survivor moved from  
19 place to place during three months of a particularly frigid winter and had to split up her five  
20 children between friends and relatives because at times she was sleeping in her car.  
21 Explaining the distressing decision to be separated from her children, she said "after I . . .  
22 was staying in the car, I didn't want my kids to be sleeping in a car. I figured like I could,  
23 but it was dangerous for me, [so] it would also be dangerous for them also. So I made them  
24 stay with relatives and friends, because I didn't want to drag them out. . . . And it was kinda  
25 cold then, too, when that was going on."  
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1           41. Because of the short notice common with eviction, other survivors were  
2 forced into significantly inferior and dangerous housing. One woman described the  
3 dangerous boarding house that was the only housing she was able to secure when she was  
4 evicted: “I didn’t feel comfortable down there at all. The first week I was down there, they  
5 were shooting and I was up in the bed, and it was a very uncomfortable place to be. . . . It  
6 was buggy. It wasn’t safe. No security on the doors. Then the other roomers . . . were just  
7 lettin’ anybody in. I either had to be in the house before it got dark, or . . . look around and  
8 make sure nobody is [in the room].”  
9  
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11           42. Several women also described the long-term impact that a nuisance eviction  
12 had on their ability to access housing going forward. The eviction was often revealed when  
13 a potential landlord ran a background check on the prospective tenant. In most cases,  
14 landlords who found out that survivors were the subject of nuisance violations then refused  
15 to rent to them. With a nuisance eviction on their records, domestic violence survivors’  
16 attempts to secure safety by calling the police could follow them for years. This was the  
17 case for one survivor who explained that “a couple of people, when I tried to get an  
18 apartment told me, ‘We see that there are some things in here about you calling the police.’  
19 And they didn’t want to rent to me.”  
20  
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22           43. Losing eligibility for low-income housing can be another devastating  
23 consequence of eviction. Many low-income survivors need access to housing subsidies in  
24 order to rebuild their lives. Loss of housing subsidies dramatically reduces a survivor’s  
25 ability to obtain adequate, affordable housing in the future. After losing her Section 8  
26 housing voucher because she was evicted pursuant to the nuisance property law, one  
27 domestic violence victim was told that the waiting list to obtain another Section 8 voucher  
28

1 was now ten years long. While it is possible to contest revocation of the rental subsidy, the  
2 process can be difficult and many domestic violence survivors are unable to re-claim the  
3 subsidy. Consequently, when facing the false choice between the long-term impact of a  
4 nuisance eviction and enduring domestic violence without police protection, another victim  
5 of domestic violence chose to leave before a possible eviction. She explained her situation,  
6 saying “if I lose this apartment, then I won’t ever be able to get into another low income  
7 apartment and I have one more violation to get [before I am evicted].” Although the path to  
8 losing her housing was different from a formal eviction, this survivor was nevertheless  
9 forced out of her home because of the nuisance property law.  
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12 44. In addition to the immediate difficulties of being forced from one’s home,  
13 eviction and the housing insecurity that results can create a domino effect, destabilizing  
14 multiple other areas of a domestic violence survivor’s life. Given the tenuous situation of  
15 many victims of domestic violence, evictions pursuant to nuisance property laws trigger  
16 adverse events for which these women are already at risk. The threat of eviction takes on  
17 even greater consequence when coupled with existing conditions of poverty, dangerous  
18 neighborhoods, resource-poor social support networks, and already compromised physical  
19 and mental health. Threat of penalty under nuisance property laws thereby places a  
20 correspondingly heightened chilling effect on survivors’ ability to seek police assistance and  
21 an unmanageable burden on those who do call 911.  
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24 45. Many of the women interviewed lost all of their personal possessions when  
25 they were evicted, either because they had no time or means with which to take their  
26 belongings with them on short notice or because the landlords dumped their property on the  
27 curb and passersby took them.  
28

1           46.     Some women reported that, once they were evicted, they could no longer go to  
2 work because of the extreme stress and/or because they had to take time to find new housing  
3 right away.

4           47.     For others, evictions exacerbated physical illness and not having a permanent  
5 residence made it difficult for some women to get proper health care. One survivor of  
6 domestic violence explained that she had diabetes and, after her eviction, wasn't able to get  
7 the medical care she needed for her foot, which became infected and eventually required  
8 surgery: “[D]uring that time when [I was homeless and] I first started getting the blisters and  
9 all that, they wanted to send a home health nurse out. Well I couldn't get a home health  
10 nurse because I didn't have any address to send a home health nurse. . . to come out and  
11 make sure to check my blood and do whatever it was supposed to be done.”

12           48.     Eviction also triggered or aggravated existing mental health problems for  
13 several of the women interviewed, as the lack of stable housing made it hard for them to  
14 function effectively. Eviction also compounded the trauma that resulted from the abuse they  
15 suffered. For example, one woman who had previously been hospitalized for mental illness  
16 stated that flashbacks from the abuse, coupled with her inability to find stable housing after  
17 the nuisance eviction, was making it very hard for her to cope. Similarly, another victim of  
18 domestic violence described how eviction heightened the trauma of the rape that had been  
19 perpetrated by her abuser. She stated that the eviction ultimately caused her to fall into a  
20 deep depression and try to commit suicide: “[B]y then, well, I was trying to black out what  
21 had happened with the rape. I didn't want to think about that and the fact that I was being  
22 evicted.”

23           49.     Accordingly, nuisance property laws that encourage or require evictions based  
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1 on police responses to a property directly punish domestic violence survivors for reaching  
2 out to police and create substantial, tangible barriers to reporting the violence perpetrated  
3 against them. Survivors are forced to either 1) face escalating violence in silence, chilled  
4 from calling 911 to seek protection from abuse; or 2) leave their housing, risking long-term  
5 housing insecurity and homelessness.  
6

7 50. Because these laws broadly fail to distinguish between the perpetrator and  
8 victim of crime, they have been shown to have a similar impact on crime victims and other  
9 individuals who are blamed for crime outside their control, inhibiting their ability to call the  
10 police and resulting in evictions.<sup>1</sup>  
11

12 51. These nuisance laws and the enforcement processes that flow from them are  
13 designed to focus attention on victim's calls to 911 or their need for police services, rather  
14 than on the violence or crime that precipitated it. This places crime victims in a situation  
15 where they are made responsible for stopping the violence or other crimes committed  
16 against them but are denied the most basic institutional supports for doing so.  
17

18 52. In domestic violence situations, the abuser exercises power and control over  
19 the partner. Nuisance laws can deprive survivors of domestic violence the ability to rely on  
20 a primary means of changing the power and control exerted by the abuser – namely, police  
21 assistance. And, if they ask for help anyway, the law punishes the victims, thus re-  
22 victimizing them after the abuse.  
23

24 53. Because these laws characterize calls to the police as the problem and  
25 downgrade the actual domestic violence to a “nuisance,” they drastically alter the categories  
26

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27 <sup>1</sup> Desmond & Valdez, *supra* at 136; Erik Eckholm, *Victims' Dilemma: 911 Calls Can Bring Eviction*, N.Y. Times, Aug.  
28 17, 2013, at A1.

1 of “victim” and “offender.” The result is that nuisance property laws obscure the real crime  
2 of gender-based violence and turn the victim into the offender. Under this rubric, law  
3 enforcement’s goals shift away from intervening in abuse to protect the survivor and focus  
4 instead on eliminating the “nuisance” by stopping repeat 911 calls at whatever cost.  
5

6 Surprise, AZ Nuisance Policy

7 54. Based on my research and review of Article III of the Surprise Municipal  
8 Code, I have significant concerns about the impact of both its Nuisance Section and its  
9 Crime Free Lease Section on survivors of domestic violence.  
10

11 55. The Surprise Nuisance Policy mirrors, and in some ways is more expansive  
12 than, the St. Louis ordinance, and thus predictably burdens domestic violence survivors’  
13 ability to seek police assistance. In doing so, the Nuisance Policy is likely to similarly  
14 increase domestic violence survivors’ vulnerability to existing violence, allow their abusers  
15 to operate with impunity, and leave them with no recourse in the face of severe and  
16 escalating abuse.  
17

18 56. First, like the St. Louis nuisance property law, the Nuisance Property Section  
19 of the Nuisance Policy defines a nuisance as any two instances of crime under federal or  
20 Arizona law that “negatively impacts the quality of life or threatens the safety and/or health  
21 of those in the area and which occurred on or near the property.” This is strikingly similar  
22 to the nuisance property law in St. Louis in its broad definition hinging on safety and  
23 welfare, its low trigger of two crimes under federal or state law, and its lack of any  
24 distinction for situations in which the tenant is the victim of the criminal activity. Like the  
25 law in St. Louis, the Nuisance Property Section is likely to be triggered by police calls to  
26 report crime at the property and will consequently deter domestic violence survivors from  
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28

1 reporting crime perpetrated against them.

2           57. Moreover, Surprise’s Nuisance Property Section goes a step beyond the  
3 nuisance provisions in St. Louis by explicitly defining a nuisance property based on calls to  
4 the police. By imposing a citation after four calls reporting any criminal activity that  
5 impacts the quality of life or threatens the safety or health of those in the area, the Nuisance  
6 Property Section directly burdens the ability of survivors of domestic violence to report  
7 crime against them to police and request police assistance in the face of violence.  
8

9           58. Finally, Surprise imposes a similar deterrent through its Crime Free Lease  
10 Section that requires landlords to adopt leases that would permit eviction upon a single  
11 instance of crime on the property. While this restriction operates through a landlord’s lease  
12 as opposed to police enforcement of an ordinance, the effect is the same. The crime free  
13 lease provisions would be triggered whenever police are called to respond to crime at the  
14 property, just like the nuisance definition that is based on multiple instances of crime  
15 without any distinction for situations in which the tenant is the victim of the criminal  
16 activity. Thus, simply by requiring that such a provision is included in all leases, Surprise’s  
17 policy works to chill tenants from calling the police and reporting crime.  
18  
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21           59. The Nuisance Policy, in both its definitions of a nuisance offense and in the  
22 crime free lease requirement, authorizes penalties when a tenant “allows” the occurrence of  
23 criminal conduct committed by herself or others or when it occurs within her “sphere of  
24 influence.” However, in failing to indicate or enforce the Nuisance Policy in such a way that  
25 no crime victim could be deemed to have “allowed” the crime against her, Surprise’s  
26 Nuisance Policy necessarily engages in victim blaming and encourages police to consider  
27 ways that the victim of a crime might be seen as at fault. The Nuisance Policy also creates  
28

1 opportunities for police bias that is already all too common in many departments, in which  
2 police inaccurately perceive continued contact with an abuser as within a survivor's control  
3 and blame the survivor for any subsequent violence against her.

4  
5 60. The Nuisance Policy also imposes process and penalties similar to those  
6 established in the St. Louis law, which gives landlords an opportunity to abate a nuisance,  
7 after which they are threatened with property closure, as well as civil and criminal penalties.  
8 Surprise's Nuisance Property Section directs that the "responsible party" will be notified of  
9 the alleged nuisance and, if the nuisance is not abated after an opportunity to do so, Surprise  
10 may revoke or suspend the property owner's business license and impose additional fines  
11 and criminal penalties.

12  
13 61. In establishing this process, the Nuisance Policy will likely lead to what  
14 happened in St. Louis: the routine eviction and removal of tenants from alleged nuisance  
15 properties, often before any formal nuisance adjudication occurs. Indeed, the Nuisance  
16 Property Section states that it is a violation for "a property owner, agent, or manager to rent  
17 or continue to rent . . . to a tenant when the property owner, agent, or manager knew or  
18 becomes aware that the tenant allows any offense [that amounts to a nuisance violation]."

19  
20  
21 62. The Nuisance Property Section, coupled with the Crime Free Lease Section  
22 that establishes the right of all landlords to evict tenants upon a single incident of criminal  
23 activity at the property, strongly indicates the City's preferred method for landlords to  
24 address alleged nuisances at their properties.

25  
26 63. From the complaint that was provided to me, I understand that, in practice,  
27 notices about alleged nuisance activity are only provided to the property owners. This was  
28 the case in St. Louis and renters were typically shut out of the process of nuisance

1 abatement unless and until the City issued a summons for them to appear in court. As a  
2 result, tenants were given no information about their rights and had no opportunity to  
3 meaningfully advocate on their own behalf in communications with the City.  
4

5 64. This lopsided exchange of information also allowed tenants to be taken  
6 advantage of by landlords. With the landlord as the primary source of information, tenants  
7 were vulnerable to landlords who wanted to charge them additional money (ostensibly to  
8 cover fines under the ordinance) or tried to evict them illegally or encourage them to move  
9 for fear of future penalty.  
10

11 65. The Nuisance Policy is likely to result in a similar silencing of domestic  
12 violence survivors who are the subject of enforcement actions and makes them vulnerable to  
13 unlawful actions by their landlords. Though property owners and managers are routinely  
14 informed about alleged problems at their properties, the tenants who are the subject of these  
15 complaints are given no notice or opportunity to advocate on their own behalf. The police  
16 officers that enforce the Nuisance Policy may thus operate on less than full information.  
17 Moreover, landlords may feel pressured to abate regardless of extenuating circumstances  
18 that show the tenant is not the cause of the problem, calculating that the only way to  
19 completely avoid the risk of penalty is to evict the tenant at issue.  
20  
21

22 66. This is apparent in the description of Surprise's enforcement of its Nuisance  
23 Property Section against Ms. Markham.  
24

25 67. Surprise officials never notified Ms. Markham about the existence of the  
26 Nuisance Property Section or the potential for Surprise to impose penalties on her or her  
27 landlord based on her calls to police. Instead, her first indication that this might be the case  
28 came when the property manager informed her that Surprise had put the landlord in a

1 position where they could not continue to rent to her. With this incomplete information, Ms.  
2 Markham was then told that she had a choice: either leave voluntarily or she would face  
3 eviction, housing insecurity for herself and her children, and the long-term impact an  
4 eviction record would have on her ability to access other housing in the future. She  
5 protested, explaining that she was not the source of any problems at her property and that  
6 the true reason for any disturbance – her abuser – had been arrested and would be barred  
7 from the property. However, with the background threat of penalty upon a future nuisance  
8 designation, the landlord nevertheless reaffirmed her intent to evict Ms. Markham.  
9  
10

11 68. While Ms. Markham sought legal assistance to challenge this threatened  
12 eviction, my research in St. Louis shows that many survivors in the same position would  
13 feel they had no recourse or would not have the resources or capacity to challenge the  
14 operation of the Nuisance Policy against them. Others in Surprise may thus feel forced to  
15 stay silent in the face of violence and will be vulnerable to landlords who take improper  
16 action pursuant to the Nuisance Policy.  
17

18 69. My research demonstrates the multiple ways that local policies like that  
19 established and enforced through the Nuisance Property and Crime Free Lease Sections of  
20 the Nuisance Policy harm victims of domestic violence.  
21

22 70. The Surprise Nuisance Policy’s threat and imposition of penalties based on  
23 911 calls and police responses to criminal activity at a property predictably establish  
24 significant barriers to domestic violence survivors’ ability to report the violence perpetrated  
25 against them.  
26

27 71. As a result, the Nuisance Policy forces domestic violence victims to face  
28 escalating violence in silence. Survivors that do call the police face penalties, such as

1 eviction and its consequent risk of homelessness and long-term housing insecurity, which  
2 can fundamentally destabilize their lives and undermine their efforts to live free from abuse.

3 Further Affiant sayeth not.

4  
5 DATED this 25<sup>th</sup> day of August, 2015.

6  
7  
8 /s/ Gretchen Arnold

9 SUBSCRIBED AND SWORN TO before me this 25<sup>th</sup> day of August, 2015, by  
10 Gretchen Arnold.

11 /s/ Tamara R. Lackland

12 Notary Public

13 My Commission Expires:

14 02-24-2017

# **EXHIBIT A**

## Curriculum Vitae

GRETCHEN W. ARNOLD, Ph.D.  
Department of Women's and Gender Studies  
St. Louis University  
St. Louis, Missouri 63108  
phone: 314/977-2166  
e-mail: arnoldgw@slu.edu

### Employment

Assistant Professor, St. Louis University, 2002-present  
Lecturer in Criminology and Criminal Justice, University of Missouri-St. Louis, 2000-2001  
Adjunct Instructor in Public Policy Studies, St. Louis University, 1995-2000  
Adjunct Assistant Professor of Sociology, University of Missouri-St. Louis, 1992-1998  
Visiting Assistant Professor, Washington University in St. Louis, 1987-88 and Spring 1994  
Senior Teaching Fellow, Boston University, 1986-87

### Education

Boston University, Ph.D. in Sociology, 1995  
Boston University, M.A. in Sociology, 1984  
Washington University in St. Louis, B.A. in Sociology, 1979

### Publications

- "Silencing Women's Voices: Battered Women and Nuisance Property Laws," co-authored with Megan Slusser, forthcoming in *Law & Social Inquiry*, Vol. 40, no. 4 (Summer 2015).
- "Reframing the Narrative of the Battered Women's Movement," with Jami Ake, *Violence Against Women*, 19(5): 557-578 (May 2013).
- "The Impact of Social Ties on Coalition Strength and Effectiveness: The Case of the Battered Women's Movement in St. Louis," *Social Movement Studies* 10(2):131-150 (April 2011).
- "A Battered Women's Movement Perspective of *Coercive Control*," *Violence Against Women* 15(12): 1432-1443 (Dec. 2009).
- "The Social Construction of Wife Beating in Political Discourse," *Iowa Journal of Communication* 38 (2006).
- "Dilemmas of Feminist Coalitions: Collective Identity and Strategic Effectiveness in the Battered Women's Movement," *Feminist Organizations: Harvest of the New Women's Movement*,

eds. Myra Marx Ferree and Patricia Yancey Martin (Philadelphia: Temple University Press, 1995), pp. 276-290.

### **Publications Under Review or In Process**

"Do Nuisance Property Laws Harm Battered Women?" Currently under review.

"A Brief History of Anti-Violence Against Women Movements in the U.S." Co-authored with Jami Ake. Invited chapter for new 3rd edition of *Sourcebook on Violence Against Women*, edited by Claire Renzetti, Jeffrey Edleson, and Raquel Bergen. Currently under review.

"U.S. Women's Movements to End Violence against Women, Domestic Abuse, and Rape. Invited chapter for *The Oxford Handbook of U.S. Women's Social Movement Activism*, edited by Holly McCammon, Lee Ann Banaszak, Verta Taylor, and Jo Reger. In process.

"How Nuisance Property Laws Amplify the Intersecting Vulnerabilities of Battered Women." Co-authored with Shang-Tzu (Trish) Yeh. In process.

### **Book Reviews**

*From Global to Grassroots: The European Union, Transnational Advocacy, and Combating Violence Against Women*, by Celeste Montoya (New York: Oxford University Press, 2013), in *Gender & Society* 29 (3): 446-448 (2015).

*Political Women and American Democracy*, ed. Christina Wolbrecht, Karen Beckwith, and Lisa Baldez (Cambridge: Cambridge University Press, 2008), in *Mobilization* 14 (3): 399-400 (2009).

*Different Wavelengths: Studies of the Contemporary Women's Movement*, ed. Jo Reger (NY and London: Routledge, 2005) in *Contemporary Sociology: A Journal of Reviews* 36 (6): 541-543 (2007), published by the American Sociological Association.

### **Selected Applied Research**

Innovative Concept Academy, St. Louis, Mo., 2012

Worked pro-bono with a student research team at St. Louis University to design and carry out a program evaluation of this alternative high school for at-risk students who have violated the Missouri Safe Schools Act or are under the supervision of the Division of Youth Services. Report requested by the Juvenile Division of the Family Court in the 22<sup>nd</sup> Judicial Circuit of Missouri, St. Louis, Missouri.

Circles of Success Initiative, St. Louis, Mo., 2000-2002

Principal Investigator for this two-year program funded primarily by the United Way of America and the Bank of America Foundation that was intended to improve early childhood education and initiate systems change.

Neighbor to Neighbor, St. Louis, Mo., 1997-2000

Evaluator for this program funded by the U.S. Department of Education intended to develop a university-community partnership to provide community based services for children and families living in urban poverty.

Research Associate, Institute of Applied Research, St. Louis, Mo., 1987

Worked on a study of women's employment opportunities in the state of Missouri that was commissioned by The Missouri Council on Women's Economic Development and Training.

#### **Academic Presentations**

“Silencing Women’s Voices: Battered Women and Nuisance Property Laws,” American Sociological Association Annual Meeting, San Francisco, 2014.

“Nuisance Property Laws from the Perspectives of Battered Women,” Sociologists for Women in Society Winter Meeting, Nashville, TN, 2014.

“Political Activism and the Classroom,” Midwest Sociological Society Annual Meeting, Chicago, IL, 2013.

Invited lecture, “A Social Movement: Battered Women, 1970-Present,” Women’s History Month public lecture, along with Jami Ake, at Forest Park Community College, 2013.

“How Can We Teach Activism in the Classroom?” Sociologists for Women in Society Winter Meeting, Tamaya, Santa Ana Pueblo, NM, 2013.

“The Gendered Impact of the Nuisance Property Law in St. Louis,” First Annual Gender and Politics Conference, St. Louis University, 2012.

“Competing Views of a Crime Policy’s Consequences: The Nuisance Property Law in St. Louis,” Midwest Sociological Society Annual Meeting, Minneapolis, 2012.

“Criminal Justice Policy Decisions: The Need to Incorporate Domestic Violence Victim’s Views,” Sociologists for Women in Society Winter Meeting, St. Petersburg, Fla., 2012.

“Reframing the Narrative of the Battered Women’s Movement,” with Dr. Jami Ake, Midwest

- Sociological Society Annual Meeting, St. Louis, 2011.
- "Nuisance Property Laws and Their Impact on Domestic Violence Victims," with Megan Slusser, MSW, Midwest Sociological Society Annual Meeting, St. Louis, 2011.
- "Changing the Narrative of the Battered Women's Movement," Sociologists for Women in Society Winter Meeting, San Antonio, 2011.
- "Maintaining Autonomy While Collaborating with the State: Strategies of the Battered Women's Movement," Midwest Sociological Society Annual Meeting, Des Moines, 2009.
- "The Dynamic Relationship between Movements and States: The Case of the Battered Women's Movement," American Sociological Association Annual Meeting, Boston, 2008.
- "From Political Impotence to Political Power: The Case of the Battered Women's Movement in St. Louis," Midwest Sociological Society Annual Meeting, St. Louis, 2008.
- "The Impact of Social Ties on Coalition Strength and Effectiveness," The Political Theory Workshop at Washington University, St. Louis, 2008.
- "The Ties that Emancipate: Network Growth and Dynamics in the Battered Women's Movement," Collective Behavior and Social Movements section of the American Sociological Association workshop, Hempstead, NY, 2007.
- "Social Activism in Collaboration with Progressive St. Louis Groups," Association for Humanist Sociology Annual Meeting, St. Louis, 2006.
- "Social Movement 'Success': The Battered Women's Movement's Discourse and Institutional Change," American Sociological Association Annual Meeting, San Francisco, 2004.
- "Social Movements and Collective Action Frames: The Case of Wife Beating," Mid-South Sociological Association Annual Meeting, Baton Rouge, 2003.
- "Politics and Wife Beating: The Ebb and Flow of a Women's Political Issue," American Sociological Association Annual Meeting, Toronto, 1997.
- "The Construction of Wife Beating as a Social Problem," Society for the Study of Social Problems Annual Meeting, Toronto, 1997.
- "Public Discourse and Institutional Change: The Case of Wife Beating," Eastern Sociological Society Annual Meeting, Boston, 1996.

"Social Movements and Normative Change: A Case Study of the Battered Women's Movement," American Sociological Association Annual Meeting, Los Angeles, 1994.

### **Research Grants Received**

St. Louis University Beaumont Faculty Development Fund for Research, July 1, 2013-July 31, 2014. The grant of \$5000 supported my research project entitled "The Impact of Nuisance Property Laws on Victims of Domestic Violence, Phase 2."

St. Louis University Faculty Research Leave, Fall 2013 semester, along with \$2000 to help fund my research project entitled, "The Impact of Nuisance Property Laws on Victims of Domestic Violence, Phase 2."

St. Louis University Beaumont Faculty Development Fund for Research, December 2005-December 2006. The grant of \$2700 supported my research project entitled "A Case Study of the Battered Women's Movement in St. Louis."

### **Selected Supervision of Students' Applied Research**

Domestic Violence Court Watch, St. Louis, Mo., 2014, 2015

Supervised students who compiled data and reported the findings from a Court Watch in the St. Louis City Family Court that issues Orders of Protection for victims of domestic violence. Project is sponsored by St. Louis Ending Violence Against Women Network (SLEVAWN).

Domestic Violence Intervention Program (DVIP), St. Louis, Mo., 2010

Supervised a student research team at St. Louis University to design and carry out an evaluation of this joint project of the St. Louis Metropolitan Police Department and Legal Advocates for Abused Women.

Court Order of Protection Assistance Project (COPA), St. Louis, Mo., 2010

Supervised a student research team at St. Louis University to design and carry out an evaluation of this joint project of the St. Louis County Courts and Legal Advocates for Abused Women.

### **Areas of Academic Concentration**

Gender-based violence and the law

Social movements and political sociology

Gender and women's issues

Social theory and philosophy of social science

**Courses Taught**

Violence against Women  
Multicultural Feminism  
Contemporary Sociological Theory  
Classical Social Theory  
Political Sociology (both graduate and undergraduate levels)  
The Structure of Poverty, Globally and Locally  
Social Movements  
Feminist Movements of the 19th and 20th Centuries  
Gender and Society  
Program Evaluation (graduate level)  
Research Methods  
Statistics  
Introduction to Sociology  
Law and Society  
Social Problems

**Teaching Awards**

Robert A. Johnston, S.J. Award for Excellence in Undergraduate Teaching in the Social Sciences, St. Louis University, 2013.

**Current Professional Affiliations**

Editorial associate, *Theory and Society*  
Membership Committee (elected), Sociologists for Women in Society  
Treasurer, Midwest Sociologists for Women in Society  
Member, American Sociological Association  
Member, National Women's Studies Association

# **EXHIBIT B**

*Law & Social Inquiry*

Volume 00, Issue 00, 00–00, Summer 2015

## Silencing Women's Voices: Nuisance Property Laws and Battered Women

Gretchen Arnold and Megan Slusser

*There is little documentation about how nuisance property laws, which fine people for excessive 911 calls, affect victims of domestic violence. In St. Louis, we found that police and prosecutors believe that the law benefits victims of domestic violence by providing them with additional services. By contrast, advocates for domestic violence victims believe that the law undermines battered women's access to housing and discourages them from calling 911. Using qualitative data, we analyze how the organizational structures and dynamics within which each group works give rise to different stocks of working knowledge. We conclude that law enforcement officials are unaware of these harms because women's voices and experiences are marginalized during the enforcement process. This research reveals mechanisms through which law enforcement policies reinforce gender inequality, and illustrates some ways in which gender relations and power come into play in what, on their surface, appear to be gender-neutral laws.*

### INTRODUCTION

Many county and city governments have passed nuisance property laws in recent years (Fais 2008; ACLU Women's Rights Project n.d.). Nuisance property laws typically fine property owners for repeated 911 calls to their properties. While states began passing nuisance property laws in the late nineteenth and early twentieth centuries, their scope has expanded to cover new kinds of activity in the past three decades (Thacher 2008). Today, they are usually intended to improve the quality of life for urban residents by cracking down on crimes like prostitution, drug dealing, and code violations, and by helping to recoup the costs of providing police services.

In St. Louis, law enforcement officials have attempted to use the nuisance property ordinance also as a tool to reduce chronic domestic violence. When we began investigating the impact of this approach to domestic violence, we found that law enforcement personnel considered their efforts to have been quite

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Megan Slusser is the Support Services Manager at Safe Connections, an organization that provides counseling to survivors of domestic and sexual violence in St. Louis; she can be contacted at [Megan@safeconnections.org](mailto:Megan@safeconnections.org).

The authors thank the St. Louis office of the ACLU for sharing documents it obtained through the Freedom of Information Act. The authors also received very helpful comments on earlier drafts of this article from Jami Ake, Lena Bohman, Ellen Crowell, Adrienne Davis, Marilyn Friedman, Scott Harris, Wynne Moskop, Linda Nicholson, Rebecca Wanzo, and the anonymous reviewers for *Law & Social Inquiry*.

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beneficial for victims, who are usually battered women. By contrast, battered women's advocates contended that the nuisance property law harms victims of domestic violence in a number of ways. To explain how these two groups have come to hold such dramatically different evaluations of the law, in this article we analyze the different organizational structures and dynamics within which each group works and trace them to the different types of information and working knowledge that each group acquires. We conclude that law enforcement officials are unaware of the harms the law inflicts on battered women because the enforcement process they use silences any voice these women might have during the process.

The struggle over competing claims about social reality, especially those made by professional groups, has been the topic of study in both social problems and social movement theory. Theorists in both areas use a social constructionist approach that presupposes that what counts as social reality is not given a priori, but is instead the result of ongoing processes of negotiation between individuals and groups. For example, Loseke (1992) uses this approach to analyze how the social and organizational contexts of battered women's shelters influence how shelter workers recognize, identify, and respond to battered women.

Our study, which is based on a variety of qualitative data collected from 2010 to 2012, is narrower in scope than Loseke's. We focus on the rules and routines that circumscribe the types of information to which workers have access, and how this gives rise to different stocks of working knowledge and perspectives about the law's impact on battered women. More specifically, we argue that the views of both advocates and law enforcement flow from broader organizational strategies. Law enforcement officials focus their attention on the criminal aspects of the nuisance behavior and on physical harm to the victim. Victims' advocates, by contrast, take a more holistic view and focus on how the women's life risks and vulnerabilities are exacerbated by the law. The two groups also gather different kinds of data, which leads them to draw competing conclusions about whether or not the law protects victims, imposes financial and other burdens on victims, and holds offenders accountable. Finally, law enforcement and advocates differ about whether to interpret cases in which the victim stops calling the police as instances in which the abuse has stopped or as situations in which victims are now afraid to call 911.

By examining these groups' competing views about the nuisance property law in St. Louis, our study contributes to the literature about how organizational goals influence work rules and procedures that, in turn, shape workers' responses to violence against women and their interpretations of the outcomes. This study also calls attention to the mechanisms through which law enforcement policies and practices reinforce gender inequality. And, finally, it has implications for our understanding of the ways gender relations and power come into play in what, on their surface, appear to be gender-neutral laws.

### THE NUISANCE PROPERTY LAW IN ST. LOUIS

Nuisance property laws are part of a broader strategy of community policing widely adopted since the 1990s. This approach focuses on dealing with community

problems by maintaining order, solving problems, and engaging in service-oriented activities (Goldstein 1990). Community policing puts a high priority on responding to community concerns, especially with activities that focus on reducing the fear, disorder, and incivility that some argue create conditions that breed crime (Buzawa and Buzawa 2003).

The City of St. Louis has had a nuisance property law on the books since 1996. In its most recently revised version, Public Nuisance Ordinance #68535 (2009) defines a nuisance as “a continuing act or physical condition which is made, permitted, allowed or continued by any person . . . which is detrimental to the safety, welfare or convenience of the inhabitants of the City.” Examples of nuisance behavior in the ordinance include prostitution, illegal gambling, drug activity, or any other activity that is considered a felony, misdemeanor, or ordinance violation under federal, state, or municipal law. The ordinance states that a public nuisance exists when any of these situations takes place at a particular property on two or more occasions within a twelve-month period (Public Nuisance Ordinance #68535 2009). In practice, the nuisance law is usually triggered when there have been two or more calls to 911 reporting nuisance behavior at a specific address.

Once a property is deemed to be a public nuisance, the property owner is sent a Cease and Desist Letter giving him or her thirty days in which to take reasonable measures to abate the nuisance. Copies of the Cease and Desist Letter are also posted on the property, typically on or next to the front door. If the owner fails to take appropriate steps to abate the nuisance within the prescribed thirty days, he or she may be issued a summons to appear in municipal court. Property owners may be summoned for “failure to abate a nuisance” and tenants may be summoned for “engaging in a nuisance” or “maintaining a nuisance.” A recent addition to the enforcement policy now allows officers to issue summonses to nonresident offenders following investigation into the reported incident. If found guilty, the individual in violation of the ordinance—owner, tenant, or nonresident offender—could be fined between \$100 and \$500 for each violation. Ongoing failure to abate a nuisance can result in the problem property or problem unit of a property (in the case of multiunit housing) being closed and boarded for up to a year (Public Nuisance Ordinance #68535 2009).

To enforce the Public Nuisance Ordinance, the St. Louis Metropolitan Police Department (SLMPD) organized a Problem Property Unit with one or two problem property officers assigned to each of the city's nine police districts. Each month these officers meet with members of the City Counselor's Office (the municipal prosecutors) and the Neighborhood Stabilization Team (each neighborhood stabilization officer is assigned to specific neighborhoods to act as a liaison between residents and local government officials) to identify properties in which there have been two or more calls for police service in the past twelve months. The owners are then either sent a Cease and Desist Letter or, in the small percentage of cases in which that option has been exhausted, a summons to municipal court. The Cease and Desist Letter invites the property owner to contact the City Counselor's Office to set up a joint meeting with a prosecutor, problem property officer, and neighborhood stabilization officer to discuss the cause of the nuisance activity, explore possible remedies, and develop a case-specific plan of action. On occasion,

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problem property officers also work with the local housing authority, community organizations, neighborhood associations, and other property owners to solve the issue that is creating the nuisance.

The nuisance property enforcement process initially focused on dangerous property conditions such as exposed wiring or leaking plumbing. Over time, the police developed protocols for applying it to additional types of problems, and in 2008, battered women's advocates began to notice that the women they spoke with complained of being threatened with fines or eviction under the nuisance property law. Advocates expressed their concerns to the police and prosecutors in a series of meetings and individual communications.

In 2009, the SLMPD and the City Counselor's Office decided to use the nuisance property law to address repeated domestic violence calls in a new way that would help rather than harm battered women. The decision to use municipal regulations to address domestic violence was at least in part fueled by the police's frustration with state prosecuting attorneys' reluctance to prosecute domestic violence cases. Problem property officers were directed to reach out to domestic violence victims, who were identified as having made repeated calls for police services, and to forward these cases to advocates in the Domestic Violence Intervention Partnership (DVIP)—an already-existing joint program of the SLMPD and a local battered women's advocacy organization—so that they could provide victims with safety planning, discuss the options available to them, and provide them with referrals for additional services. As a result of this policy, the police referred ninety-four such cases to DVIP advocates in 2010, fifty-five in 2011, ninety in 2012, and 112 in 2013. DVIP does not keep separate data on its nuisance property cases, but did tell us that the domestic violence victims mirrored their clients overall, who are women who are typically low income, African American (80 percent), and single (87 percent).

#### LITERATURE REVIEW

Social scientists have devoted considerable effort to investigating innovative criminal justice intervention strategies for domestic violence and, more generally, the relationship between law, law enforcement, and domestic violence (Buzawa and Buzawa 2003). However, as nuisance property laws have proliferated, there has been remarkably little research to date about their impact on victims of domestic violence. In a 2008 law review article, Cari Fais was the first to express concern about how these laws might affect battered women. She argued that these laws not only contradict other government policies aimed at reducing domestic violence, but that they are also likely to harm battered women in multiple ways. Fais suggested that nuisance laws discourage victims from calling the police for protection, exacerbate the barriers that victims already face in securing housing, and unfairly blame the victim for criminal activity that she cannot control. Fais concluded that the only way to prevent these harms to victims is specifically to exempt domestic violence from the categories of behavior to which the law applies.

In 2013, the first and so far only empirical study about the law's effects on victims of domestic violence was published. It confirmed Fais's claims and added racial

and class concerns. Matthew Desmond and Nicol Valdez reviewed every nuisance property citation issued by police in Milwaukee during a two-year period and interviewed police officers and landlords. They found that nearly a third of all nuisance citations in Milwaukee were triggered by domestic violence, that domestic-violence-related nuisance property citations were disproportionately issued in black neighborhoods, and that in 83 percent of domestic-violence-related citations the landlords either evicted or threatened to evict the tenant (often at the behest of police) if she continued to call 911. The majority of tenants threatened with eviction were battered women rather than the batterers. They also found that as a result of downgrading battered women's 911 calls from a potential crime to a nuisance, many landlords concluded that domestic violence was "petty, undeserving of police protection" and that the landlords "assigned to battered women the responsibility of curbing the abuse" (2013, 18). The authors summed up their findings this way: "*The nuisance property ordinance has the effect of forcing abused women to choose between calling the police on their abusers (only to risk eviction) or staying in their apartments (only to risk more abuse). Women from black neighborhoods disproportionately face this devil's bargain*" (21, emphasis in original).

### The Legal Response to Violence Against Women

While there has been limited research about the connection between nuisance property laws and domestic violence, there is extensive literature examining the law enforcement response to domestic violence and sexual assault and, more generally, the role it plays in the reproduction of social inequality. Experts agree that in response to feminist demands since the 1970s, there have been significant changes in many aspects of law enforcement regarding domestic violence, including recognition of the severity of the problem and the need to do something to mitigate it.

Although these legal changes have been accompanied by a decline in the overall rates of serious domestic violence offenses since 1990, it is unclear if this decline can be attributed to changes in the law, both because the rates for other violent crimes have similarly fallen and because confounding factors make it hard to trace the observed declines to specific policies (Buzawa and Buzawa 2003). But there is general agreement that rather than consistently bringing about greater autonomy and agency for women, some legal interventions in domestic violence have had serious unintended consequences for victims, especially those who are already disadvantaged because of their race, class, sexual orientation, disability, or immigration status (Mills 1999; Miller, Iovanni, and Kelley 2011; Goodmark 2012).

In particular, the mandatory criminal justice interventions advocated by many feminists and widely adopted in the 1980s, including mandatory arrest, prosecution, and reporting, have since been criticized for inflicting a variety of harms on victims. Such negative consequences include the greater likelihood that the victim will be arrested, that her children will be taken from her by social services, that she will be subject to police mistreatment, that noncitizen battered women will be deported, and, more generally, that victims risk increased and ongoing state intrusion in their lives (Wacholz and Miedema 2000; Buzawa and Buzawa 2003; Coker 2008).

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The scholarly literature that attempts to explain why criminal justice reforms have not consistently benefited battered women—and have sometimes backfired—tends to fall into three complementary but analytically distinct groups. The first (and oldest) traces the problem to the pervasive influence of male values and practices in the occupational culture of law enforcement. Specific features of this male culture that authors have pinpointed include assumptions about male entitlement and female blame (Randall and Rose 1981), the belief that it is normal for husbands to control their wives physically and sexually (Ferraro 1989), stereotypes about women who complain of physical and sexual assaults (Corrigan 2013), and the macho antipathy toward anything perceived as social work instead of crime fighting (Stanko 1989).

The second analytic approach points to characteristics of the state itself, of which law and law enforcement is a part. In the 1980s, feminists advocated for the criminalization of domestic violence both as a deterrent to abuse and as symbolic recognition that violence against women is a social and political, rather than a personal, problem (Curre 1995). However, many have observed that in both the United States and Canada, these criminal justice reforms dovetailed with a right-wing push for punitive responses to many types of perceived threats to social order. Bumiller (2008), Wacquant (2009), and Haney (2010) all argue that this shift toward increasing punishment reflects broader patterns of state restructuring according to neoliberal principles, including cutbacks in welfare programs, mass incarceration, and increased surveillance by social service bureaucracies.

The result has been intensified regulation of the poor and minorities by a web of state and private nonprofit social service agencies. These authors and others make the case that contemporary state interventions in domestic violence cases, and especially mandatory law enforcement policies, reproduce the kinds of controlling dynamics that women experience in abusive relationships, including lack of choice in decisions, social isolation, degradation, and terrorization (Mills 1999; Wacholz and Miedema 2000; Bumiller 2008; Wacquant 2009; Haney 2010). They and others (e.g., Curre 1995; Goodmark 2012) also point out that the expansion of an already class- and race-based criminal justice system has, not surprisingly, exacerbated the unequal impacts of legal interventions on different groups of women. Policies that criminalize domestic violence have largely been designed with the needs of white, heterosexual, middle-class women in mind, for whom interventions such as mandatory arrest often work. However, poor women of color and others with marginalized identities often have different needs and interests, including the need to secure alternative housing and maintain a steady source of income, which are ill-served or even harmed by these policies (Coker 2008).

The third approach is the one that this article adopts. It investigates the institutional logics that shape the everyday practices of law enforcement, decision making, and the perception of responsibilities. In particular, it examines the gender bias in the seemingly gender-neutral rules and procedures that govern laws and law enforcement practices. In a 1994 summary of this analytic approach, Frohmann and Mertz write that a key feature of this approach is to illuminate the ways rules and procedures interpret, recast, and, ultimately, silence the voices of oppressed groups within the criminal justice system. For example, Sandefur (2008) analyzes the gaps

between the kinds of evidence that legal procedures can recognize and the kinds of experiences that victims of domestic violence actually have. Martin and Powell (1994) point to legal organizations' internal characteristics (e.g., rules and routines) that prioritize institutional interests over the interests of sexual assault victims. Pence (1999) describes ways in which administrative processes and regulating texts (e.g., forms, rules, written scripts, and documentary practices) determine what is institutionally significant, such as increases in arrests rather than victim safety. Frohmann and Mertz (1994) conclude that one way to counter this silencing of marginalized voices is for researchers to pay careful attention to, and amplify, women's perspectives of their own experiences of gender when dealing with law enforcement. Qualitative studies such as this one contribute to this effort.

## THEORETICAL BACKGROUND

The missions and objectives of organizations are reflected in rules and routines that guide workers' activities (Martin and Powell 1994). As Pence puts it, organizations "put into place procedures, policies, categories, and language that subsume the idiosyncratic thinking and acting of individuals into institutionally acceptable responses to a case" (1999, 27). She uses the example of how the criminal justice system routinely fails to address the safety of domestic violence victims:

Beginning with the administrative methods designed to accept a victim's call for help, continuing with the way police officers are institutionally organized to respond to and document an assault call, and ending with the closure of that case weeks or even years later, each practitioner is guided to think and act on cases in ways that are institutionally prescribed. (Pence 1999, 37–38)

Expanding on Pence's example, our article analyzes the ways in which different organizational routines have led law enforcement personnel, on the one hand, and domestic violence advocates, on the other, to acquire different stocks of knowledge (Schutz 1967). These organizational routines reflect the institutional logic within which each group works and circumscribe workers' access to different types of information. The result is that workers evaluate nuisance property laws based on completely different sets of evidence and, hence, draw widely different conclusions about the law's impact on battered women.

Law enforcement and battered women's advocacy organizations approach domestic violence very differently. The delivery of advocacy services for battered women (including by the advocates in this study) is often organized using the principles of social work and guided by the National Association of Social Workers' Code of Ethics (NASW 2008). Of particular importance to advocacy services is the pursuit of the values of social justice and the dignity and worth of the person. Law enforcement, by contrast, is organized with the goal of maintaining social order (Bar-On 1995). As a result, studies have repeatedly found that law enforcement officers and social workers hold differing perceptions not only about how best to approach and

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resolve domestic violence, but also even as to what counts as domestic abuse (see, e.g., Parkinson 1980; Home 1994; Johnson, Sigler, and Crowley 1994).

This disconnect is manifest in the information that is routinely gathered by each group. Law enforcement's strategy is to ensure social order by preventing or punishing violations of the law. Hence, police and prosecutors are more interested in criminals than in crime victims. As Martin (2005) found in her study of how institutional actors respond to cases of rape, even though individual police officers and prosecutors may want to be more responsive to victims, they almost always prioritize the organization's interests over victims' interests (see also Buzawa and Buzawa 2003). As a result, their focus is on finding lawbreakers and bringing them to justice, not on assisting the victims of crime. Moreover, as Bar-On (1995) points out, front-line workers like police officers work under time constraints. They arrive at events either while they are happening or shortly afterward. They have neither the time nor the need to seek information about the cause of the situation beyond the immediate motive. It is not a part of their job to solicit background information routinely, because any judgments about, and remedies for, underlying causes are the responsibility of the judiciary, not the police. As a result, police officers and, to a lesser extent, prosecutors process cases using a relatively narrow slice of information. For domestic violence cases, their primary concern is to determine if there has been physical abuse, if the victim has suffered physical harm, and to separate the abuser from the victim in order to ensure the victim's safety (Bar-On 1995; Danis 2003; Coker 2008). This highly circumscribed set of routines affords officers little opportunity or incentive to gather more information about other ways in which the enforcement process may have affected a victim's life.

In contrast, the information gathered by battered women's advocates is broader and takes into account both the victim's relationship to her abuser and other aspects of her life. Advocates' primary strategy is to provide individuals with emotional support, resource referrals, and advocacy with other organizations that will promote personal growth and help victims gain intrinsic control or empowerment. Social workers are not so constrained by time: they work with individuals over longer periods and are able to take account of a broader range of variables than are the police (Bar-On 1995). So in addition to gathering information about the dangers posed by the batterer, battered women's advocates routinely find out about those risks victims face from the women's own life circumstances, or what Davies calls "life-generated risks" (Davies 1998; Hart 2008). Battered women often must deal with issues of poverty, dangerous or resource-poor neighborhoods, physical and mental health issues, inadequate or counterproductive responses by social institutions, and discrimination based on the cross-cutting inequalities of race, ethnicity, gender, immigration status, and disability—in short, the kinds of problems faced by women who are at the intersection of multiple systems of oppression and discrimination (Crenshaw 1989, 1991). By listening to the women talk about their experiences and perspectives, advocates gain a more holistic understanding of these women's lives by taking into consideration the complex ways these other factors interact not only with the abuse, but also with the law enforcement process. From their perspective, the nuisance property law's consequences for domestic violence victims go well beyond the victim's physical safety—housing, financial security, child care, and the maintenance of relationships are all endangered.

Our analysis highlights key ways in which the organizational policies and practices of law enforcement personnel and victims' advocates result in the routine collection of different sets of information. These policies and practices reflect the larger organizational missions that structure the workplace rules and priorities of each group. We then show how the working knowledge each gleans from the information that is routinely gathered produces competing views about the impact of nuisance property laws on victims.

### Data and Method

The formal research for this article was carried out from 2010 to 2012 in St. Louis. One of the researchers, Ms. Slusser, worked as an advocate for domestic violence victims from 2006 to 2010, during which time she was involved with the DVIP program as a victims' advocate and helped coordinate the program with law enforcement personnel. During this same time, Dr. Arnold served as a board member for the domestic violence organization that ran the DVIP program. She learned about the nuisance property law in the course of her board service. Beginning in the summer of 2010, the two joined forces to investigate and document the impact of the nuisance property law on domestic violence victims. Six months later, Ms. Slusser took a job with a different agency and stopped working as a DVIP advocate.

All our data are qualitative and have been gathered through interviews, participant observation at meetings, examination of existing documents, and Ms. Slusser's knowledge of the nuisance property law from her years of working with DVIP. For the field observations, we took notes at two meetings between law enforcement personnel and domestic violence advocates that focused on the nuisance property law. We examined twelve documents, including information about enforcement of the nuisance property law, distributed jointly by the police department and a coalition of domestic violence advocates; internal policy documents from the police and neighborhood stabilization offices; and online city guidelines for landlords. Some of these documents were publicly available and others were acquired through the Freedom of Information Act. The meeting observations and existing documents primarily provided us with background information about the history of the nuisance property law in St. Louis and the policies that the police and prosecutors claimed they followed in enforcing it.

For the interviews, we conducted criterion-based or purposive sampling, choosing informants who were likely to provide us with the maximum amount of information (Patton 2002; Ritchie, Lewis, and Elam 2003). We interviewed a total of sixteen people, one of whom worked on passing the nuisance property legislation, nine of whom enforced the law, and six of whom defended people against it. On the victims' advocacy side, there is a relatively small but well-coordinated community of domestic violence service organizations in St. Louis, each specializing in different types of victim needs (e.g., shelter/housing, counseling, or legal services). Although the staff at many agencies do help women obtain Orders of Protection, they work only with civil cases.

The nuisance property cases are triggered by criminal activity, and there are only two organizations that routinely provide advocacy services for these. From

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these two organizations, we interviewed a total of three advocates whose job it was to provide services for battered women involved in nuisance property cases. In addition, the second author of this article also held one of these jobs until shortly after we began our research and we drew on her four years of experience (although we did not count her as an interviewee). Ms. Slusser provided consultation and perspective on the role of a victim advocate, the experience of working closely with law enforcement, and clarification of policies and procedures that battered women encounter while navigating the criminal justice system in St. Louis. We also interviewed a fourth advocate because she had worked at one of the city's two battered women's shelters for many years and had observed how their residents had been affected by the nuisance property law.

The positions held by all these advocates put them at the intersection of the domestic violence community and the criminal justice system in St. Louis, giving them a unique perspective on the nuisance property law, the enforcement process, and how it had been experienced by battered women. We also interviewed two people who worked in housing law: one was the housing attorney with the local branch of Legal Services (formerly the Legal Aid Society), and the other was a private attorney for landlords who owned large apartment complexes. Both had represented a number of clients—primarily property owners—who had been caught up in the nuisance property process because of domestic violence.

On the law enforcement side, we interviewed three of the four prosecutors who handled the prosecution of nuisance property cases, as well as their supervisor. One of these prosecutors had been a key architect of the office's internal policy for handling nuisance property cases that involved domestic violence. We interviewed the Chief of Police who approved the policy changes to use the nuisance property law to help battered women. We also spoke with the police sergeant in charge of the nuisance property unit and one of his eleven problem property officers. In St. Louis, there is also a contingent of twenty-eight neighborhood stabilization officers,<sup>1</sup> whose job it is to bring together officials, police, and departments of the city government, on the one hand, and neighborhood groups, residents, and block units, on the other, to solve physical and behavioral issues in the neighborhoods. We interviewed the director of this unit and one of the regular officers. Finally, we interviewed one of the elected aldermen from the city government who had helped pass revisions to the nuisance property law. Our informants are summarized in Table 1.

We conducted two group interviews with a total of six of the police and prosecutors, and individual interviews with all the rest. Five of the interviews were conducted by both researchers together (including all those with the prosecutors and police) and seven were conducted by either one investigator or the other. Operating from a policy analytic approach (Spencer, Ritchie, and O'Connor 2003), we used semistructured interview guides that asked the participants to tell us about their personal history of contact with the nuisance property law; what effects, either positive or negative, they thought the law was having on victims of domestic violence, and why these effects were happening; and whether they would change

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1. Despite their name, neighborhood stabilization officers are civilian positions, not trained law enforcement ones.

**TABLE 1.**  
**Study Informants**

Position	Number of Interviewees
Victims' advocates	4
Housing attorneys	2
Municipal prosecutors	4
Police	3
Neighborhood stabilization officers	2
Elected city alderman	1

anything about the law or how it is enforced. We audio-recorded and transcribed the interviews with the domestic violence advocates and housing attorneys. However, because the law enforcement personnel were not comfortable being tape recorded, we each took handwritten notes during those interviews and compiled them afterward. (This is why there are many fewer quotations from law enforcement personnel than from advocates in our discussion of the findings.)

We followed the qualitative analysis process outlined in Spencer, Ritchie, and O'Connor (2003). All our data analysis was carried out manually using paper and pencil or a word processor. Alternating between working alone and then comparing our notes, we repeatedly reviewed all the data (including the meeting observations, documents, and interview transcripts/notes) and sorted them into themes such as the history of the nuisance property law in St. Louis, the current process of enforcement, what the informants stated as pros and cons of excluding domestic violence from the nuisance property law, and what the data indicated were the ways in which the law was affecting battered women. We further synthesized the ways the law was affecting battered women along key dimensions that appeared in the data: housing, safety, accountability, financial, legal burden, and service delivery effectiveness.

While it had been apparent from early in the project that advocates and law enforcement personnel held very different assessments of the law's impact on battered women, once we started synthesizing the information, we could discern patterns and develop typologies for each perspective, including what each group believed it knew and how and where it obtained its information. We then were able to draw connections between the different perspectives of each group, its work rules and routines, and what we knew or were able to find out about its underlying organizational imperatives in order to develop our theoretical explanation.

Ethical approval for the study was provided by the St. Louis University Institutional Review Board, and informed consent procedures were adopted for all those interviewed.

### The Use of Advocates in This Study

Ideally, a study that seeks to illuminate the ways nuisance property laws are affecting battered women should rely on accounts given by the women who are

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affected. However, as with all studies, this one was limited by the constraints of time and access to the population. We anticipated that the IRB approval process for interviewing victims would be much more arduous than for interviewing professionals. We also wanted to obtain funding to compensate victims for telling us their stories. Both of these would require more time and effort than we had available, so we decided to wait until the next phase of the study to interview victims.

In addition, the victims' advocates held certain advantages as informants. They each had talked with many women while doing their jobs over the years and had gained knowledge from seeing how multiple cases played out. They also knew details about how the enforcement process was supposed to work in contrast to how it actually did work in practice. In short, by the time we interviewed them, they had each worked with many nuisance property cases and acquired a much wider knowledge base to draw on than would any one person going through the enforcement process.

It is worth noting that the views expressed by the advocates reflect their organizations' feminist goals and strategies for preventing and responding to domestic violence. All the advocates interviewed for this study used a woman-defined advocacy model in which the woman guides the direction of the advocacy (Davies 1998). Part of the advocates' role is to adopt the standpoint of battered women and speak out on their behalf to improve local agency and policy responses to domestic violence (Pence 2001). It was these advocates' perceptions of the women's experiences that motivated them to repeatedly complain to the police and prosecutors about the nuisance property law and that led officials to develop their innovative enforcement process in the first place.

## FINDINGS

We found competing assessments of the law's impact on domestic violence victims in the following areas: the victim's access to safe and secure housing; her safety, especially her willingness to call 911 for protection; whether the law in effect holds the victim or the batterer accountable for the nuisance behavior; the law's financial impact on victims; the additional legal burden the law imposes on victims; and the ability of advocates to deliver services effectively to victims. We address each of these topics below.

### Housing

Housing is one of the main concerns that domestic violence victims face as they weigh their options for ending abusive relationships, and for good reason. There is ample evidence that domestic violence is a primary cause of homelessness for women and their children: either they leave abusive relationships with nowhere to go, or landlords evict them because of the violence (National Law Center on Homelessness & Poverty and the National Network to End Domestic Violence 2007; National Coalition for the Homeless 2009; ACLU Women's Rights Project n.d.). Access to housing is also an area in which law enforcement and victims'

advocates in St. Louis clearly diverge in their assessment of the law's impact on battered women.

The nuisance property law as it is currently implemented in St. Louis excludes renters from the enforcement process until the last step, in which summonses to appear in court are issued. This means that during the first months in which efforts are made to abate the nuisance, basic information about the law and its potential consequences are routinely given only to property owners and landlords; tenants are not independently given information about their rights and options. As one victims' advocate put it: "The tenant is completely out of the loop." Domestic violence advocates told us that this makes battered women vulnerable to landlords who want to charge them additional money (ostensibly to cover the fines) or who try to evict them and their children illegally:

Landlords aren't *supposed* to evict for domestic violence, but what they do is then they say that you're a "problem property" so I can evict you based on that, because they're not calling it [the reason for the eviction] domestic violence.

Advocates also reported that without an understanding of the nuisance property law or their rights as tenants, battered women often panic when they learn about the Cease and Desist Letter (often by seeing it posted on the building's front door) and believe they have to vacate immediately, before they secure new housing.

They [the women we work with] would just see certain words and that meant to them eviction. Even though that's not at all what the letter said. Or they would just see—you know, especially if you have a woman who is very limited in her education, she may not even be able to understand what that letter is saying or some of the words on it, and would just assume it's a document meaning eviction. The assumption would just scare her and she would pick up and leave or be in crisis mode.

When we asked police and prosecutors about this, all but one denied that it was a problem because summary eviction in these cases is illegal. One told us point blank: "At no time do we tell a landlord to evict anybody." Another replied that if a tenant is being evicted illegally, she can call the police to stop it. Still another responded that the courts sort out cases in eviction proceedings and make sure that illegal evictions do not happen. All these responses referred to the formal legal process and how it is supposed to protect tenants' rights. What they do not take into account are the ways in which many women's vulnerability to multiple systems of oppression and discrimination, especially poor women's lack of education and access to legal advice, exposes victims to being forced from their housing.

The only official who acknowledged to us that tenants are often illegally evicted was a neighborhood stabilization officer, a quasi law enforcement position that brings the officer into routine informal contact with residents in the city's neighborhoods. For the most part, though, the impact of the law enforcement process occurs below the official radar. Law enforcement personnel, operating on the

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basis of police reports that focus on whether or not the nuisance (abusive) behavior has stopped, rarely or never learn about the landlords' threats to evict or make their tenants pay the nuisance property fines, or about the fear that victims experience when they see the Cease and Desist Letter posted on the front door.

These officials are not oblivious to their lack of knowledge about what happens in these cases. One prosecutor told us that they had revised the nuisance property ordinance three times in five years trying to improve it, but that

[w]e could use more resources for referrals. It would also be good to get feedback from DVIP advocates regarding whether or not what we did helped. It is helpful to find out what happened in these cases, and that only happens in a few instances.

By contrast, the battered women's advocates routinely learn about what happens by talking directly to the victims not only about the abuse itself, but also about the other risks they face due to their gender, class, and other devalued social statuses.

Although law enforcement officials asserted that they do not instruct property owners to evict tenants illegally, domestic violence advocates and the housing attorneys we spoke with noted that the nuisance property process itself encourages landlords to evict tenants. As one advocate told us:

When it comes to Cease and Desist [orders], it's [issued] against the landlord as well as the victim, so there is that possibility that the landlord will evict them from the home because they don't want to continuously have to go back in and to talk to the nuisance property officers or the [prosecuting] attorneys about what to do.

When landlords are faced with a variety of problems, including property damage due to domestic violence incidents, repeated police activity, and a problem property designation, with its threats of fines and a lengthy court process, even those with good intentions may decide to pressure victims to vacate. It was impossible for us to obtain data concerning the percentage of domestic violence cases in which illegal evictions happen, but when we asked a neighborhood stabilization officer for a ballpark estimate, the officer answered that it happens "more often than not."

The victims' advocates we interviewed also pointed out that because many domestic violence victims are forced to move out by their landlords, often with little advance notice, they and their children are at risk of becoming homeless. This risk is exacerbated because they have now been labeled nuisance tenants, which makes it more likely that they will have difficulty securing decent, affordable housing if they divulge this information on rental applications.

If I'm a victim of domestic violence and I am a tenant and I'm getting kicked out by my landlord because of this nuisance call . . . what do they ask me on my application [for a new rental]? They ask me for the contact information of my previous landlord. So they're going to call that landlord who had to boot

me so the city wouldn't close his building. So I'm not going to be able to find a place to live.

This advocate's assessment reflects studies that indicate that eviction is serious not only because of the emotional trauma involved (Renzetti 1998), but also because it often prevents tenants from obtaining affordable housing in a decent neighborhood and it disqualifies them from many housing programs (Desmond 2012). It is more often the victim who has to deal with an eviction because of the nuisance property law, not the abuser. Although we did not look specifically into the effects of the law on batterers, most of the victims referred to DVIP are low-income women heading single-parent households. When there is a man living in the home, it is still most often the woman's name on the lease or whose Section 8 voucher they are using. She is the one who typically stands to lose the most if the law affects their current housing. In addition, when women have to move, their children suffer. The children may miss school or may have to change schools, which can put them behind academically. The literature suggests that residential instability is strongly associated with academic and behavioral problems among youth (Kerbow 1996; Tucker, Marx, and Long 1998).

As these data show, law enforcement officials relate to the victims' experiences through narrowly circumscribed institutional rules and procedures. From the officials' perspective, the only relevant aspects of these cases—and the only aspects that come to their attention—are those that pertain to formal legal processing. The full range of women's actual, lived experiences is rarely a part of the picture they see. By contrast, because domestic violence advocates understand battered women's experiences through multiple, wide-ranging conversations with the women, they find out that landlords evict tenants all the time through informal processes that are effective and much less costly and time consuming than taking cases to court. Access to these very different types of information, which reflect the role constraints and organizational imperatives that structure each group's work, give rise to competing views about how the law enforcement process affects women's access to safe and secure housing.

### **Protection/Safety**

From the perspective of battered women, there are already a variety of potentially negative consequences if they contact law enforcement for protection. There is the emotional impact of seeing their significant others arrested and potentially put in jail. Or the victim may fear that the police will choose not to arrest her abuser, resulting in additional abuse once the police are gone. Minority and poor women also sometimes fear harassment or violence from the responding officers themselves (Richie 1996). Advocates in St. Louis reported that the nuisance property law creates even more reasons, on top of these, for battered women to hesitate to call the police:

They're more likely to actually just not call the police if he's standing outside of the house, if he's trying to get in. You know, she might be in danger but she won't feel like she has the option to call.

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Battered women who are aware of the nuisance property law now face a situation in which they feel they must forfeit their right to access law enforcement by calling 911 or else be subject to potential fines and/or eviction. Advocates also told us that abusers who are aware of the nuisance property enforcement process sometimes use the law as a way to harass their victims further, by repeatedly calling 911 and reporting problems at the victims' addresses.

Another safety concern, they argue, has to do with Orders of Protection:

One of the things that started happening was that the nuisance property officers would say you have to go get an Order of Protection. They were looking for proof because part of the law says that you have to make an effort to make things better, and to make things different. So that was in their mind, the proof now is that you've got an Order of Protection and, you know, she's trying to keep this from happening. But they weren't understanding that it could put her into more danger if she does get an Order of Protection.

Orders of Protection work in some cases to reduce the violence; in others they can serve as a trigger for more violence. This is why battered women's advocates argue that the decision about whether to obtain an Order of Protection should be made by the woman herself, taking into consideration all the possible consequences that such an action might entail. Pressure from landlords to obtain an order violates this principle and can backfire on the victims.

The perspective of law enforcement personnel, by contrast, is that the nuisance property enforcement process helps them identify and reach out to victims of domestic violence. Often, there are several different types of nuisance property violation at a given address (such as drug dealing, noise disturbances, and domestic violence). Police and prosecutors are supposed to screen all the nuisance property cases for instances of domestic violence and forward those cases to the DVIP advocates. They may also share this information with their fellow law enforcement officers, who can then monitor the property. By identifying domestic violence cases through the nuisance property process, they are able to give more attention to these cases and have a greater chance to intervene and, potentially, enhance the victim's safety. According to one official:

The law right now actually benefits the victim because it brings the issue into the open. If we don't have the ordinance, then what? We need to go after the offender—he's usually causing other problems, too. We can go after the offender and offer the victim services.

One way they can go after the offender without the victim's involvement is to ask the court to issue a Neighborhood Order of Protection (unique to St. Louis) that bars the abuser from entering an entire neighborhood and makes him liable to arrest if he does. Through all these mechanisms, they argue, the nuisance property law alerts them to potential safety concerns for victims and, in the end, enhances victims' safety along with triggering the referral process to DVIP. One law enforcement official sent us a postinterview e-mail summing up the case he and his

colleagues made for why domestic violence cases should not be excluded from the nuisance property law:

This [enforcement] process shows how important it is to keep the domestic [violence] calls for service in the ordinance to help the victims of crime. I know from afar looking at the laws you would think that this is a bad law being considered as a nuisance for calling, but in turn this is the only thing that I can think of that actually helps the victims.

When asked about this argument, the victims' advocates replied that according to SLMPD internal policy, *all* the city's police officers are supposed to refer domestic violence victims to DVIP for services, whether the nuisance property law is involved or not. As one advocate stated bluntly, "I don't think this law [would be] needed to identify DV" if all police officers performed their duties properly. In cases where officers are following procedure, DVIP should receive a referral for the same victim in the same incident from both the regular district officer and the nuisance property officer. In practice, however, they often do not receive a referral from the district officer. In our interviews, the police and prosecutors did not explain this discrepancy. So while one advocate acknowledged that the nuisance property officers' referrals to DVIP's services are valuable to battered women, she and other advocates argued that there should not be a need to pass a law that has all of these negative unintended consequences for victims in order to compensate for district officers who do not follow proper procedures.

Victims' advocates and law enforcement officials also draw very different conclusions when battered women stop calling 911. Every organization's goals and objectives guide actors in how to interpret the meaning of events and situations, including what counts as the successful outcome of a case. So when a nuisance property case involving a domestic violence victim disappears because 911 calls have stopped, law enforcement personnel interpret this as a success that has enhanced the victim's safety. One of the officials we interviewed told us he was sure the enforcement process works as a deterrent in domestic violence cases "because we rarely see the same tenants twice." By contrast, when advocates become aware that a domestic violence victim in a nuisance property case has dropped out of sight, they become alarmed: they know that this may be due to factors that the nuisance property law has exacerbated, including the victim's fear of additional legal sanctions and/or the loss of her housing. The same outcome, then, is interpreted by law enforcement officials and by advocates as having very different implications for victims' safety.

### **Batterer Accountability**

Holding batterers accountable for their behavior, instead of ignoring and tacitly condoning it, has long been a goal of domestic violence intervention. Whether or not the nuisance property law increases batterer accountability was another point of contention among those we interviewed. Under mandatory arrest laws in

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Missouri, St. Louis police officers responding to domestic violence calls are required to arrest any person they have probable cause to believe was the “primary physical aggressor” in a domestic assault (Missouri Revised Statutes 2013, § 455.085). Despite legally mandated arrests, police and municipal prosecutors told us that criminal charges in domestic violence cases are often not prosecuted by the state because the burden of proof is great and often rests solely on the testimony of the victim—a trend noted in the scholarly literature (Dawson and Dinovitzer 2001; Buzawa and Buzawa 2003). The state’s failure to prosecute these cases prevents batterers from being held accountable. But by making use of the nuisance property law, the municipal prosecutors told us, they can issue summonses to offenders who “engage in a nuisance,” regardless of the victim’s willingness to pursue charges, because the perpetrator is violating a city law. In the words of one law enforcement official, the nuisance property law is “really about holding everyone accountable for certain standards of behavior.”

However, domestic violence advocates and the victims they work with are skeptical that the nuisance property law is used to take legal action against their abusers. The law itself makes no provision for issuing summonses to nonresidents of the problem property. The practice of using the law to hold offenders accountable would be an internal policy in the City Counselor’s Office that is not backed by the wording of the law. It is also one that, based on our data, is used very infrequently if at all. Advocates pointed out that instead of holding batterers accountable, a battered woman is expected to do something (such as obtain an Order of Protection or move) in order to stop his abusive behavior from reoccurring at that property. According to one advocate, many battered women were frustrated with this:

They feel like it [the nuisance property law] is an attack on them. . . . It’s one more thing that they’re being blamed for. You know, I would always hear them say, “This is *him*. Why isn’t *he* going through this? Why isn’t *he* dealing with this?”

As with victims’ housing and safety, the impact of the law on batterer accountability looks very different from the two perspectives. Law enforcement officials claim that the law, in principle, holds all nuisance offenders accountable for certain standards of behavior, and cite procedural options that they could use to do so in domestic violence cases. They view these cases through a narrow procedural lens that obscures the law’s impact on anyone except the abuser and his behavior. But the advocates argue that, in practice, the nuisance property enforcement process usually holds victims accountable for stopping the violence instead of the abuser. They make this claim based on both their knowledge of how the law is actually enforced and their access to battered women’s perspectives about the experience.

### Financial Impact on Victims

Battered women’s advocates claim that the nuisance property law can have serious financial repercussions for women, especially for those with low or moderate

incomes. According to the advocates in St. Louis, a number of domestic violence victims have been fined over the past several years. These fines add up quickly, especially if the abuser is coming around every day or two and the victim is calling the police every time. Even a small fine can be devastating for a domestic violence victim who is already living in or near poverty.

The law enforcement officials we interviewed stated unequivocally that they have no intention of fining domestic violence victims. As one official told us: "The last thing we want is a victim in front of the court being prosecuted."<sup>2</sup> In defense of their claim that victims are not fined, they cited their formal procedures for screening domestic violence cases out of the nuisance property enforcement process. As noted above, however, these procedures rely on very circumscribed information about victims and the outcomes of cases.

Our information does not indicate whether or not fines levied on domestic violence victims have decreased or stopped in the last few years. But the financial harm to victims occurs in more ways than just through fines, ways that escape the notice of law enforcement officials. According to the advocates we interviewed, a victim incurs significant financial burdens if she hires a lawyer to contest the nuisance property fines. This expense is especially likely to be incurred if the victim or a relative owns the home where she is staying. In cases where the victim is renting, she will experience additional costs any time the law makes it necessary for her to move and she has to pay for moving expenses, a security deposit, utility hookups, and so on. The nuisance property law, from this more holistic view, imposes financial costs that go beyond the obvious fines and magnify its harms, especially for low-income women.

### Legal Burden

Many battered women are already dealing with law enforcement agencies when they encounter the nuisance property law. Sometimes, they are in the process of obtaining a protection order or trying to get the police to enforce one; often they are already engaged in a divorce or child custody dispute. Others are cooperating with prosecutors in open cases against their abusers. Whatever their situation, domestic violence advocates have found that being caught in the net of the nuisance property law can cause severe strain on victims' abilities to cope. As one advocate told us, battered women

would call me up and they would have to be . . . at the warrant office or they would have to be at a grand jury or at their Order of Protection hearing and then on top of that, they would have to go to a hearing for the nuisance property within X amount of days . . . and it was becoming overwhelming for them.

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2. Multiple law enforcement officials told us the same cautionary tale about a case some time ago in which a domestic violence victim showed up in municipal court on crutches and with bruises. According to the story, the judge became incensed and threw the case out. So along with any concern they may have for domestic violence victims, the officials we spoke with also want to screen victims in order to maintain a good reputation with the judges.

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Not only that, but their landlord would be coming down on them [because he received a Cease and Desist Letter].

This advocate described these legal entanglements as so burdensome that some women become worn down and simply decide that they do not want to deal with the criminal justice system anymore. As a result, they stop calling 911. She added that this law feels to victims like one more way that they are being blamed by the criminal justice system.

The nuisance property process itself can also be frightening for victims, according to advocates. If a victim is in a rental unit, she is not routinely given any information about her rights as a tenant, which are covered under the federal Violence Against Women Act. Instead, the landlord is her primary source of information, and in many cases he is either threatening to make the victim pay the fines or threatening to evict her if there are any more 911 calls to the address. While both of these actions are against the law, the victim often has no independent source of information about this except what she might learn from the DVIP advocates. And even if she does learn about her rights as a tenant, actually exercising them may require that she hire an attorney and undertake legal proceedings, which can be both stressful and costly.

The nuisance property law enforcement process in St. Louis has not been consistent about whether tenants can attend the meetings between law enforcement officials and property owners. The law enforcement officials told us that tenants are not allowed to attend these meetings. From their point of view, the property owner is the person responsible for stopping the nuisance behavior and the one who will incur the penalties if it does not stop, so he is the relevant party to the proceedings. One law enforcement official told us that tenants who show up at these meetings have been asked to leave. In the past, however, there have been a few occasions in which domestic violence victims who were tenants have been present. According to one advocate who accompanied some victims to these meetings: "We've only been asked to come twice and it was more because the victim was resistant than it was for any other reason." Even then, though, the problem from the advocates' point of view is that the way the meetings are structured is bound to be intimidating:

You have a lot of people there that she doesn't know, plus if it's the landlord, then he's there and he's being told that there is an issue. So it's very intimidating. And there's nobody for her, on her side, or what feels like it.

In a situation where there are at least three law enforcement officials and the landlord present but no one to represent the victim's interests, it may be extremely difficult for the victim to voice her concerns and advocate on her own behalf. In fact, even some property owners may have difficulty defending their own interests in this setting. One observer at many of these meetings told us that property owners are treated with different levels of respect depending on their perceived level of education and social class. So allowing tenants to attend these meetings may give battered women information they need to prevent their landlords from taking advantage of them, but it is not likely to ensure that their voices are heard.

Victims often share information with advocates about how they experience the law, but there is no point in the nuisance property law enforcement process during which police and prosecutors acquire this same information. As noted above, one of the city prosecutors we spoke with told us that they have only received feedback from DVIP advocates in a few instances about whether or not their actions helped domestic violence victims. In part, this may be because social services providers must protect the confidentiality of their clients, but it is also because there is no uniform police policy for obtaining this information. One nuisance property police officer told us he sometimes goes to a victim's home and talks with her in order to find out more about her situation, but another one told us that he is careful not to show up at the property so that it does not provoke the abuser and cause further harm to the victim. In any event, many victims are intimidated by the police and hesitate to divulge information about their fears. And from a law enforcement policy point of view, the most relevant information is not whether the victim is satisfied with the law enforcement process, but whether or not the nuisance calls have stopped.

### Effectiveness of Service Delivery to Victims

When law enforcement officers believe that there is domestic violence occurring at a nuisance property, they are supposed to forward the domestic violence victim's contact information to a DVIP advocate for followup. The advocate then telephones the victim to offer information, safety planning, and referrals for services. From a procedural standpoint, the officers have fulfilled their obligation to assist the victim by handing off the case to a third party, and it is up to DVIP to help the victim deal with any additional problems. Martin and Powell (1994) have shown that officers are evaluated based on the rate at which they clear cases, and so have little incentive to invest the additional time or energy that would help victims of violent crime recover. The law enforcement officers in our study are unlikely to receive further information about the victim unless the case independently comes to their attention again. If it does not, they conclude that their procedures were successful in ending the abusive behavior.

While the DVIP advocates agree that these referrals for services can benefit victims, they also point out that this procedure often undermines their ability to deliver services effectively to victims. When they telephone a victim:

Typically we have to explain why we're calling. . . . It's not just the fact that we're calling because of domestic violence, we're now calling because we have to explain that you're on this possible list and that you might actually get charged for continuing to call 911. . . . [Interviewer: Does that make your job harder?] It does. It makes it more challenging to develop a relationship with the victim when you're starting off saying, "Oh, by the way, you might be charged a great deal of money."

Victims often interpret this information to mean that the advocate is working on behalf of the police, immediately setting up an adversarial relationship between

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the advocate and the victim. Now, instead of being receptive to help, the victims are guarded about what they tell the advocates because they fear that whatever they reveal might somehow lead to sanctions. For an advocate to provide support, there needs to be trust between the two parties, but the way the referral process is structured makes it more difficult to develop trust and undercuts the advocates' effectiveness.

The implied threat of sanctions also discourages victims from seeking assistance from the state in the future. In practice, then, the referral process looks very different from the two institutional perspectives. From the point of view of law enforcement, it appears that they have successfully identified and handled the domestic violence aspect of a nuisance property case by passing it off to DVIP. From the advocates' perspective, however, it adds an additional and unnecessary complication to their efforts and may discourage some battered women from taking advantage of their assistance.

## DISCUSSION

The SLMPD and City Counselor's Office have developed a process for enforcing nuisance property laws that they believe mitigates the harms that the law inflicts on battered women. Yet according to the advocates who work closely with these women, the law is still adversely affecting battered women. Our case study uncovered not only several different ways the law was harming these women, but also the mechanisms through which these harms were produced and why they remained hidden from police officers' and prosecutors' view.

Our analysis illustrated two key ways in which the organizational policies and practices of law enforcement and victims' advocacy shape workers' interpretations of the law's impact. The first policy concerns how each group gathers information, which affects the amount and types of information routinely available to each one. Using a casework approach to working with domestic violence victims (Johnson, Sigler, and Crowley 1994; MCADSV 2010), an advocate often has multiple contacts with the same victim over time and makes it a point to talk with her about her experiences, feelings, and actions. As a result, advocates typically have a rich set of information from which to draw conclusions about the myriad ways in which the nuisance property law has affected a woman's life.

By contrast, the police and prosecutors interviewed for this study use the incident-focused approach favored by law enforcement (Stark 2007; Fulcher and Yeh 2008) in which they have very circumscribed interactions with domestic violence victims that focus on the physical abuse. Most of the information they have about individual cases is gleaned from police reports, and the information considered relevant for these reports is typically limited to details about specific incidents of abuse and the victim's physical safety vis-à-vis her abuser. In addition, victims are often reluctant to volunteer information to the police because they are not sure what will be done with it. These factors limit the information that police and prosecutors receive about the law's impact on victims' lives beyond the physical abuse

and, we contend, prevent them from learning about many of the harms that the law causes.

The second organizational policy relates to the goals each group pursues. For victims' advocates, one primary goal is to help domestic violence victims navigate community systems to obtain the resources they need (Allen, Bybee, and Sullivan 2004). To do this, advocates place themselves at the intersection between the woman and social institutions in order to identify, articulate, and pose solutions to the problems the woman confronts (Pence 2001). The advocates are in a position to see how the nuisance property law intersects with other ways these women are disadvantaged and creates additional, serious obstacles such as insecure or lost housing, the inability to call 911 for protection, and additional legal entanglements with which victims must deal. In Milwaukee, Desmond and Valdez (2013) found that properties in black neighborhoods were more likely to receive nuisance citations for domestic violence. We suspect that race may also be a factor in the distribution of these cases in St. Louis, but do not have access to data that show this. What is clear from our study, however, is that domestic violence victims are especially vulnerable to being harmed by the nuisance property law if they are poor, undereducated, and otherwise lack the resources to resist both their abusers and the penalties inflicted by this law.

Law enforcement personnel, by contrast, have multiple and sometimes conflicting goals (Buzawa and Buzawa 2003). While they do seek to assist victims by stopping the violence, their first priority in nuisance cases is to eliminate the problem behavior that decreases the quality of life for city residents. This is typical of community policing more generally, which tends to prioritize community concerns above more traditional law enforcement activities like crime control and emergency assistance (Rosenbaum and Lurigio 1998). The police and prosecutors we spoke with described the nuisance property enforcement process as "neighborhood driven," meaning that cases originate with complaints by residents in the neighborhoods. The enforcement focus, they told us, is on getting people to comply with certain standards of behavior, not with "fining or shutting folks down."

In practice, this means that the bulk of their attention is given to the kinds of public disorder that disturb the neighbors rather than the private victimization of battered women. Furthermore, the nuisance property law itself constructs the victim of domestic violence as the offender who is responsible for creating the nuisance and, in so doing, obscures the actual crime of gender-based violence that has occurred. So rather than intervening in the abuse, the way to eliminate a nuisance is to stop repeat 911 calls to an address. As long as they follow proper procedures to identify and refer domestic violence victims for services, police and prosecutors are confident that they have assisted victims and mitigated any harms the law might cause. Using the cessation of 911 calls as the measure of success does not indicate whether the abuse has stopped or battered women are safer, but from a law enforcement perspective it does make the nuisance property law look quite effective for eliminating nuisance behavior.

Law enforcement personnel are blinded to the problems the nuisance property law causes because of their faith in the enforcement process. Ironically, it is the process itself that fails to deliver routine feedback to them about the outcomes of

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these cases. It is unclear how much oversight of nuisance property cases is being conducted either in St. Louis or nationwide. There are a number of potential or actual problems with these laws in addition to those noted in this study. For example, there are due process considerations that are unresolved, such as whether the problem property designation would even stand up in a court of law (Seiler 2008; Cameron 2012). Another question is simply in what percentage of cases the nuisance is abated and what tactics the landlords employ to make this happen, an empirical question for which data are lacking (Fais 2008). At a minimum, law enforcement agencies should be tracking the percentage of cases that are domestic-violence-related and actively seeking more information about their outcomes.

In the meantime, more social scientific research is needed to uncover and document additional mechanisms through which nuisance property laws affect battered women both negatively and, perhaps, positively. There may be ways in which women use the law, and the access to victims' services it brings, to their advantage but of which advocates are unaware. To determine this convincingly, there needs to be research that gathers information from the women themselves in addition to the advocates who served as their surrogates in this study. We are currently undertaking this type of study in St. Louis.

### Theoretical Implications

This study has implications for understanding not only how professionals can reach such dramatically different assessments of a law's impact, but also for how women's experiences are excluded in routine case processing. In a 1994 article, Martin and Powell demonstrated that staff in legal organizations work to fulfill organizational needs first and, as a result, routinely treat rape victims unresponsively. We have shown that similar detrimental outcomes occur in the case of nuisance property laws, even when law enforcement personnel make a concerted effort to be more responsive to victims' needs. In our study, the work rules and practices of the police and prosecutors exclude information about the real-life consequences of law enforcement for battered women. Rather than being exceptions to the rule, however, such silencing of subordinate voices is a common way in which institutional power operates. As Leslie J. Miller (2003) points out, a favorite theme of Foucault's was the power of dominant discourses not only to impose fundamental assumptions and categories on how we perceive reality, but also to ward off challenges to them while concealing their exclusionary practices.

In the case at hand, police and prosecutors can in good faith claim that they are promoting the interests of victims in their enforcement process precisely because the women's dissenting voices have been silenced by organizational protocols. This is not a unique case. Feminist critical legal scholars such as Kimberle Crenshaw (1989) and Carol Smart (1989) have examined legal discourse and legal ideology as a system of knowledge and power that, among other things, excludes the voices of women and men of color (Frohmann and Mertz 1994). More recently, critics of the neoliberal state have pointed out how policies like mandatory arrest and no-drop prosecution expand state control over the lives of women while ignoring the women's concerns and interests, all in the name of

protecting them (Curre 1995; Bumiller 2008). Empirical studies like those of Sandefur (2008), Martin and Powell (1994), Pence (1999), and this one show some of the administrative rules and procedures through which this is accomplished.

The criminal justice system's failure to take battered women's experiences with the law into account has implications not only for individual women, but also for how the unequal distribution of power in our society is maintained. Many of the negative impacts of St. Louis's nuisance property law are due largely to the gender-specific ways women are disadvantaged compared to men in many areas of life (access to housing, employment, safety, credit, and income, to name a few). Our findings point out at least six ways in which the enforcement of nuisance property laws exacerbates these gender-based risks and, more generally, contributes to our understanding of the complex relationship between gender inequality and law enforcement. In this regard, our study is an example of what Dorothy Smith (2005) has termed "institutional ethnography," an examination from women's standpoint of the institutional practices that shape women's experiences and reality. Analyses like ours expose the power relations that these practices embody and describe how they serve to perpetuate women's subordination in society.

Our study analyzes organizational rules and practices to explain the gendered impacts of a seemingly gender-neutral law. Feminist criminologists have argued that there are many additional ways in which the content and enforcement of laws involve gender, racial, and class discrimination. Danner (1998), for example, points out the adverse economic and emotional costs for women of three-strikes crime bills that shift public funds from social services to the criminal justice system. Massey, Miller, and Wilhelmi (1998) analyze the ways civil forfeiture laws in drug crimes punish innocent third parties, especially women and children, by taking away their property. And McGuire, Donner, and Callahan (2012) find that Missouri's laws regarding robbery, a crime that tends to be committed against men, are more protective of victims than are its laws against rape, which almost exclusively victimizes women.

These analysts all make the point that seemingly gender-neutral laws support and perpetuate the subjugation of women. They also all come to the same conclusion as do the advocates we interviewed, namely, that we need to take a more holistic approach to understanding the impact of law and law enforcement on women and children. This requires that we take seriously the perspectives of the women affected by these laws. By detailing the various ways battered women are harmed by the nuisance property law, our study contributes to a more sophisticated understanding of how institutional and social processes reproduce relations of domination.

### Policy Implications

The harms to battered women that result from St. Louis's nuisance property law are likely to continue until domestic violence cases are excluded from the enforcement process. The primary question is how to make this exclusion happen. Fais (2008) suggests amending nuisance property statutes to include language that

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explicitly exempts 911 calls related to domestic violence, a proposal we endorse. However, until law enforcement officials are made aware of the problems associated with the law, this is unlikely to happen on its own. Both Fais (2008) and Desmond and Valdez (2013) suggest various legal strategies to challenge these laws in court. Such challenges are already happening; for example, in 2013 the ACLU filed suit in federal court to challenge a nuisance ordinance in Pennsylvania (Park 2013). But until widespread changes to these ordinances are made, we recommend that feedback mechanisms be created for law enforcement personnel so that they receive much more information about what happens to victims in these cases.

In St. Louis, the DVIP advocates could work in the same office space as the problem property officers at police headquarters in order to promote communication and information sharing. (In St. Louis, sexual assault advocates currently share space with police detectives for similar reasons.) Another possibility is to invite the DVIP advocates to routine meetings of the problem property officers and prosecutors. However, these strategies are not without their own risks. As Pence (2001) points out, greater involvement of battered women's advocates in the daily processing of cases has the potential to undermine the advocates' independence and ability to speak out on behalf of women without risking reprisals. Any attempt at greater collaboration must not reach the point where advocates become beholden to the institutional system they are trying to change.

In the final analysis, equitable treatment for women by the criminal justice system must involve considering women's gender-specific needs and vulnerabilities and crafting a system that responds to them. As Websdale and Johnson (2005) argue, we need to empower battered women by providing the structural conditions for independent housing, job training and opportunities, affordable child care, and social services that enable women to break away from violent relationships. In the absence of such a comprehensive strategy, though, nuisance property laws could respond to women's disadvantaged situations by providing mechanisms for enforcing domestic violence victims' housing rights and by prioritizing their access to Section 8 housing vouchers. It is not clear whether the political will exists to use the law in this way. At the very least, though, our study shows that referring these cases to victims' advocates is no panacea for the harms that the law inflicts on battered women.

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# EXHIBIT C

***DRAFT: DO NOT CITE WITHOUT PERMISSION***

## **Do Nuisance Property Laws Harm Battered Women?**

by  
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June 22, 2015

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### **Brief bio statement**

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ABSTRACT

**Do Nuisance Property Laws Harm Battered Women?**

By Gretchen W. Arnold  
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Nuisance property laws, which fine people for excessive 911 calls, have become increasingly popular in cities of all sizes. However, research into how these laws affect battered women is still in its early stages. This research study was designed to address the question of whether nuisance property laws harm battered women and, if so, how. Using a qualitative research design, in-depth semi-structured interviews were conducted with twenty-seven primarily low-income African American battered women in the St. Louis metropolitan area who had come into contact with a nuisance property law primarily because of domestic violence. Interviews addressed circumstances of contact with a nuisance law, the response of law enforcement officials, and how the law affected the participant's housing, ability to call 911, sense of safety, finances, access to health care, and family stability. Using a multi-stage qualitative analytic procedure, two researchers independently coded each transcript for themes, after which the lead researcher compiled the categories describing the data for each theme. The data demonstrate that nuisance property laws harm victims of domestic violence in several ways, including by hindering their access to safe and secure housing, discouraging them from calling 911, increasing their vulnerability to violence, and compounding the trauma of the intimate partner violence. This research also reveals ways in which nuisance laws reinforce gender, race, and class inequality. The findings show that nuisance property laws enhance the abuser's power over his victim, hold victims accountable for the abuse, exacerbate the class- and race-based risks many battered women already face, and obscure the real crime of domestic violence. Policy-makers and law enforcement personnel need to be informed of these consequences so that they can take action to reform nuisance laws.

Key words:

Nuisance property law

Domestic violence

Intimate partner violence

Law and domestic violence

## Do Nuisance Property Laws Harm Battered Women?

### Introduction

Nuisance property laws fine or otherwise sanction property owners for repeat 911 calls to their properties. Cities of all sizes across the country have increasingly adopted them to help improve the quality of urban life and to keep or attract new residents (Fais, 2008; ACLU Women's Rights Project, 2011). As part of a broader strategy of community policing, nuisance laws are usually used to target crimes like prostitution, drug dealing, and code violations as well as to help recoup the costs of providing police services (Thacher, 2008). However, some researchers and victims' advocates have raised the alarm about how these laws may be affecting battered women, who often end up repeatedly calling 911 for police protection. This article uses evidence from interviews with domestic violence victims to help answer the question whether or not nuisance property laws actually harm battered.

Only a handful of research articles about the impact of nuisance property laws on victims of domestic violence<sup>1</sup> has been published to date. The first was a 2008 law review article in which Cari Fais laid out concerns about the potential harm to battered women. She argued that, based on how they are written, nuisance laws are likely to discourage victims from calling the police for protection, exacerbate the barriers that victims already face in securing housing, and unfairly blame the victim for criminal activity that she cannot control (Fais 2008). Then in 2013, an empirical study by Matthew Desmond and Nicol Valdez confirmed these effects and added racial concerns. Desmond and Valdez found that, in Milwaukee, domestic-violence-related nuisance property citations were disproportionately issued in black neighborhoods, and that in 83 percent of these citations the landlords either evicted or threatened to evict the tenant (often at the request of police) if she continued to call 911. They also found that by downgrading battered women's 911 calls from a potential crime to a nuisance, many landlords concluded that domestic violence was "petty, undeserving of police protection" and that the landlords "assigned to battered women the responsibility of curbing the abuse" (2013: 18). The authors summarized their findings this way: *"The nuisance property ordinance has the effect of forcing abused women to choose between calling the police on their abusers (only to risk eviction) or staying in their apartments (only to risk more abuse). Women from black neighborhoods disproportionately face this devil's bargain"* (p. 21, emphasis in original).

A research report just issued by the American Civil Liberties Union Women's Rights Project, in partnership with the Social Science Research Council, investigates the enforcement of nuisance ordinances in the cities of Binghamton and Fulton, New York (ACLU Women's Rights Project, 2015). Analyzing official records, the investigation found that each city systematically enforced its nuisance ordinance against victims of domestic violence. Domestic violence was the single largest category of enforcement under both cities' nuisance ordinances, and landlords' most common response to a nuisance property warning in Binghamton was to take action to evict the tenants. In addition, both cities routinely penalized tenants who reported other crimes committed against them, including incidents of rape, theft, and assault, or who sought medical assistance. The report concludes that nuisance laws deter people from reporting crime and force vulnerable people--especially victims of domestic violence, who often have to call 911--from their homes.

Finally, the author of this article co-authored a research article on the topic with a battered women's advocate (Arnold and Slusser, 2015). It describes the findings from Phase 1 of our research, in which we interviewed both domestic violence advocates and police and prosecutors in the city of St. Louis to find out what these professionals thought was the nuisance property law's impact on battered women. The findings confirmed the concerns of these other researchers. Based on the information that battered women's advocates gathered directly from women themselves, the researchers concluded that the law harmed battered women in several ways, including by undermining their access to safe and secure housing, by discouraging them from calling 911, and by holding the victim accountable for the batterer's abusive behavior.

This article details some initial findings from Phase 2 of this research project in which the author, as lead researcher, and two research assistants interviewed battered women themselves. While victims' advocates were an important source of information in Phase 1, Phase 2 was designed to find out and document how the law was viewed by the women directly affected by it. We sought to better understand the events that bring battered women into contact with nuisance laws, how the law is enforced, the ways in which it impacts their lives, and how they interpret this experience. We believe that victims' voices are critical to interpreting and assessing the harms caused by nuisance property laws. Not only do these women have critical information and a perspective that no one else has, but researchers and policymakers also have an ethical obligation to listen to those directly affected by a law when assessing its efficacy and usefulness. We hope these initial findings will help improve policies and practices by educating law enforcement personnel, policymakers, and social service providers about how these laws work in practice, and how and why they are negatively affecting domestic violence victims' lives.

### Nuisance Property Laws

Nuisance property ordinances are usually passed at the municipal level. While cities large and small have adopted them, Fais (2008) found that they usually share three common features. First, they designate properties as "nuisances" based on an excess of 911 calls made within a certain period of time. In the City of St. Louis, the threshold to trigger a nuisance case is two or more calls to 911 within a twelve-month period reporting nuisance behavior at a specific address. Second, nuisance laws list a number of different types of activity that qualify as a "nuisance." In some jurisdictions, domestic violence is specifically excluded and in others it is specifically included. While the St. Louis ordinance does not mention domestic violence *per se*, it does include any "activity that is considered a felony, misdemeanor, or ordinance violation under federal, state, or municipal law" (Public Nuisance Ordinance #68535, 2009), and domestic violence is a misdemeanor offense under Missouri law. Third, nuisance laws require that property owners "abate the nuisance" or face fines, property forfeiture, or even incarceration. In St. Louis City, the prosecutors' office typically threatens to fine the property owners between \$100 and \$500 for each violation (i.e., each subsequent 911 call) or, if that doesn't achieve results, board up the property for twelve months. To prevent these sanctions, the property owner *qua* landlord often turns around and threatens to evict the tenant if the 911 calls don't stop.<sup>2</sup>

## Method

This research uses a qualitative approach to learn about and describe battered women's experiences with the nuisance property law from their own perspectives (Strauss & Corbin, 1990; Creswell, 1998). By using data from in-depth interviews, we expected to gain detailed information and a deep understanding of the mechanisms through which the law affects these women's lives. Qualitative research is now an established approach in the field of social policy analysis (Ritchie & Ormson, 2014), enabling a close examination of the dynamics of how policies operate. It is also well-established in studies of intimate partner violence, having been used, for example, to assess survivors' perceptions of safety and risk following police intervention (Dichter & Gelles, 2012) and their perspectives on the role of police in their intimate partner violence arrest experiences (Li, et al., 2015). While predominantly quantitative studies like Desmond and Valdez's (2013) and the ACLU's (2015) are able to assess the frequency and distribution of the application of nuisance laws, they are necessarily limited in scope. Qualitative research can reveal the many factors that shape how the law is actually implemented. It can illuminate the chain of events through which individuals are affected by a law or policy—what is happening "on the ground," so to speak—as well as how individuals perceive these experiences and how they impact their lives. The researchers chose this approach in an effort to contribute to our understanding of the consequences of nuisance laws for the particularly vulnerable population of battered women and the ways in which these consequences occur.

## Data Collection

From July 2013 to July 2014, we conducted twenty-seven semi-structured qualitative interviews. To qualify, we stipulated that domestic violence must have been a predominant factor for an individual's involvement with a nuisance property law. In fact, all the participants in this study experienced significant or meaningful contact with a nuisance property law when they or others called 911 for a domestic violence situation. In all cases but one, we interviewed the individual who was the target of a nuisance law; the exception was a case in which we interviewed the adult daughter of a frail elderly woman about her mother's involvement with the law. To recruit participants, we contacted more than forty St. Louis area domestic violence and other social services organizations and asked them to post our flyers and tell their clients about our study. We set up a dedicated phone line for potential participants to call. We screened callers by offering each a \$15 gift certificate for groceries or public transit to complete a short confidential telephone survey that asked for a brief description of her/his contact with the nuisance property law along with demographic and housing information.

For those respondents who qualified for the study, we offered a \$75 gift certificate for groceries to participate in a confidential, in-depth follow-up interview. Using semi-structured interview guides, we asked each interviewee to describe the circumstances in which s/he came into contact with a nuisance property law; what the landlord, police, and other law enforcement officials did and what s/he did in response; whether s/he had an Order of Protection against her/his abuser; how the law had affected her/his housing situation, ability to call 911, sense of safety, finances, access to health care, and family stability; and from whom s/he had received social or organizational support. We encouraged the interviewees to describe their experiences in an open and spontaneous manner and asked follow-up questions to clarify details. We also asked

each interviewee to choose an alias that we attached to all of their information so that the data, once purged of any identifiers and our master list destroyed, would be anonymous. These interviews lasted from 30 to 90 minutes each and were conducted on the St. Louis University campus by the author and one or both research assistants. The interviews were audio-taped, any identifying information was removed, and then they were professionally transcribed.

Ethical approval for the study was provided by the St. Louis University Institutional Review Board, and informed consent procedures were followed for all interviewees.

### **Data Analysis**

The research team used a multi-stage qualitative analysis approach outlined by Spencer et al. (2014). We constructed an initial framework of themes based on information from Phase 1 of the research, such as "impact on housing" and "ability to call 911." Using the Dedoose online software program, we then indexed each interview according to codes identified from these themes, adding additional themes and codes as they appeared in the data and refining them as needed. Each interview transcript was indexed independently at least twice, once by the lead researcher and once by one of the research assistants. The lead researcher then reviewed all the transcription excerpts that were indexed with a single code, noted the elements that characterized and differentiated between the excerpts, noted key dimensions underlying these elements, and then combined these into categories that described the data for each theme. Throughout this process, the connection between the original data and the categorization taking place remained visible so that the researcher could see each step of aggregation and revisit it, if needed. In order to establish the credibility of these interpretations and conclusions, many quotations from the interviews have been included in this article. In addition, the findings presented here are consistent with those of Fais (2008), Desmond and Valdez (2013), Arnold and Slusser (2015), and the ACLU Women's Rights Project (2011, 2015).

### **Limitations of the Study**

There are some methodological limitations to this study. First, the study used non-probability sampling, so the degree of sampling error is unknown and the sample characteristics cannot confidently be generalized to other populations or contexts. It is highly likely, given that a third of the sample was recruited through battered women's shelters, that this study oversampled domestic violence victims who became homeless as a direct result of nuisance property laws. It is also possible that it oversampled low-income African-American women, although there is no comparison data for overall nuisance property citations in St. Louis with which to determine if this did happen and by how much. It is worth noting, though, that Desmond and Valdez (2012) found that properties in black neighborhoods in Milwaukee disproportionately received nuisance citations for domestic violence calls, and that women are the ones most likely to make these calls.

However, this possible weakness is also a strength: low-income minority women are the domestic violence victims most likely to be harmed by nuisance property laws because they often lack alternatives to violent relationships and the resources to defend themselves against nuisance laws. So while the prevalence of the women's experiences in this sample cannot

confidently be generalized, wider inferences can be drawn about the chain of events linking domestic violence, nuisance citations, and the resulting harms to victims.

Second, the findings are based on self-report of potentially sensitive topics, and participation was voluntary, which could result in possible self-selection bias regarding participation and reporting. Third, the accounts are retrospective and some participants' memories may have been incomplete or erroneous. This study gathers information only from participants and no attempt was made to validate the data through other sources. The goal of the study was not to gather objective "facts," but instead to understand the impact of nuisance laws from the perspectives of battered women themselves.

## **Findings**

### **Participants**

Twenty-six women and one man participated in this study. Their characteristics are described in Table 1, below.

**Table 1. Description of Participants (N = 27)**

	N
Median age	43 years
Range	24-81 years
	N
<b>Gender</b>	
Female	26
Male (DV victim was a female relative in his home)	1
<b>Race</b>	
African-American	25
White	2
<b>Education</b>	
<12th grade	11
12th grade	11
Some college	5
<b>Income (annual, household)</b>	
< \$20K	24
\$20-40K	3
<b>Relationship between victim and abuser</b>	
Heterosexual intimate partners (current or past)	23
Same-sex partners	1
Siblings	1
Mother-child/children	2
<b>Housing status</b>	
Renter	25
Homeowner (either abuser or victim)	2
<b>How s/he found out about the study</b>	
Battered women's shelter (staff, flyer)	9
Word of mouth (friend, relative, neighbor)	9
Pro-bono legal services (staff or flyer)	2
DV victims' advocate (staff or letter)	2
Other social service agency (flyer)	1
Unknown	2
<b>Dates victims affected by nuisance property law</b>	
2014	9
2013	10
2012	3
2011	2
2006-2008	3
<b>Where living when affected by nuisance property law</b>	
St. Louis City	24
St. Louis County	3

A large majority of the participants were very low-income African-American women in intimate partner relationships with abusive men at the time they were affected by a nuisance property law. Four had encountered a nuisance law in more than one housing situation, so we included only their most recent encounters in our demographic summary in Table 1. The participants were living in fourteen different zip codes spread throughout St. Louis City and St. Louis County at the time they violated or were warned about violating a nuisance law, although twenty-one out of twenty-seven of these cases were in zip codes comprised of predominantly African American, low-income neighborhoods.

Many of the abusers in these cases used severe physical violence against their victims. The interviewees described being beaten and choked, attacked with knives and pipes, threatened with guns, stalked, kidnapped and held against their will; several required medical treatment or hospitalization for their injuries and a few were permanently disabled. In about two-thirds of the cases, 911 had been called at least four times in the twelve months prior to the nuisance law enforcement. This is consistent with other research that has found domestic violence cases reported to the police tend to involve more severe violence (Akers & Kaukinen, 2009; Bonomi, et al., 2006).

### **Common Scenarios of Contact with a Nuisance Property Law**

The participants described a typical pattern in which the nuisance property law was applied. After multiple calls to 911, the victim or the couple received notification that they risked possible fines or eviction if they called 911 again because of the nuisance property law. Notification was delivered either by the landlord, a police officer, or by a Cease and Desist letter issued by the municipal prosecutors' office. In a few cases, the tenants were simply evicted with no prior warning.

Next, one of two things usually happened. In the first typical scenario, the victim decided that she could no longer call 911 but, instead, would have to take action to protect herself, such as fighting back with her abuser or moving out of her home before she could be evicted. The second typical scenario was one in which, after receiving the nuisance notification, another abusive incident happened and either the victim, her children, or the neighbors called 911 again. The landlord then notified the tenants that they were being evicted and gave them anywhere between two and thirty days to vacate. In none of these cases was the eviction adjudicated in court. In some cases, the landlord kept the tenant's security deposit as compensation for fines he said that he paid because of the nuisance property law.

### **Eviction and Its Aftermath**

At the time of their interviews, about half of the women in the study had already been forced to move because of the nuisance property law. Of this group, many women were evicted as a direct result of too many 911 calls while the others moved to avoid being evicted in the future if they had to call 911 again.

Of those who were actually evicted, many of the women and their children ended up either homeless or in unstable living situations. Some went to shelters (either battered women's shelters or generic homeless shelters), some slept on friends or relatives' couches, and some ended up in more dangerous living situations. In some cases, the women were separated from their children. For example, Bobbie<sup>3</sup> moved from place to place during three months of a particularly frigid winter and had to split up her five children between friends and relatives because at times she was sleeping in her car:

*[Interviewer: So to clarify, ... your younger children wanted to be with you but you didn't take them with you. Is that right?] Yes ma'am. They was with me [at first] but, after I ... was staying in the car, I didn't want my kids to be sleeping in a car. I figured like I could, but it was dangerous for me, [so] it would also be dangerous for them also. So I made them stay with relatives and friends, because I didn't want to drag them out. ... And it was kinda cold then, too, when that was goin' on. -Bobbie*

Another woman we spoke with could only find housing in a dangerous boarding house on short notice after her eviction:

*I didn't feel comfortable down there at all. The first week I was down there, they were shooting, and I was up in the bed, and it was a very uncomfortable place to be.... It was buggy. It wasn't safe. No security on the doors. Then the other roomers ... were just lettin' anybody in. I either had to be in the house before it got dark, or ... look around and make sure nobody is [in the room]. -Chicken*

After a few weeks, Chicken fled the boarding house and went to stay with her adult daughter, but a week later her daughter had to vacate her home, so Chicken then had to sleep on the couch at her father's. This was a typical experience for the women in this study. While friends and family are one of the most common resources for women in abusive relationships (Davies & Lyons, 2014), the friends and family members to whom these low-income minority women turned for help were themselves often in unstable housing situations.

Several women we spoke with had trouble renting a new apartment because of the prior nuisance eviction on their records. This record was often revealed when the potential landlord ran a background check on the prospective tenant. Among our participants, when future landlords found out that they had former nuisance violations, in most cases they refused to rent to them. As Dean told us,

*And when I went to apply for another apartment, they actually, the landlords actually checked the list to see if your name is on the nuisance property. Or apparently I guess they check because a couple of people, when I tried to get an apartment, told me, "We see that there are some things in here about you calling the police." And they didn't want to rent to me. -Dean*

We heard from other women that their nuisance evictions had dogged them for years when they tried to rent new apartments.

In addition to refusing to rent to tenants with a prior nuisance violation, landlords have begun writing into their leases that tenants will be evicted for nuisance property law violations. Crystal told us that when she called about apartments near her old one,

I was told that they are all abiding, they all have a contract with the city under the new law. So that's part of their lease now and that's one of the things they're gonna look [at]. If peace disturbance or anything that has to do with nuisance is in your background check. And I didn't even know that. I was like, "What??? So I can't get an apartment because of a peace disturbance?" And [one landlord] was like, "Yeah, it's part of it now."  
—Crystal

At the time of our interview, Crystal happened to be working at an organization that provides services for homeless people, and she "made it her business" to warn her clients about the nuisance ordinance and how, if they are evicted because of it, "it will be hard for you" to ever rent again.

There were other serious consequences of eviction under the nuisance law besides difficulty renting from a new landlord. Several of these battered women feared losing their eligibility for low-income housing or Section 8 certification, which can have devastating consequences for their ability to secure stable housing in the future. Fearing this result, one woman successfully sought assistance from Legal Services of Eastern Missouri to fight the nuisance charges. A couple of other women had to take extra measures to maintain their low-income housing eligibility. For example, Amy was trying to move 200 miles away to Springfield, Missouri to get away from her abuser when we spoke to her:

And I have to go up there [to Springfield] for an oral hearing because, like I said, once the police are called, it's reported to the office. And that goes on your record. So when they sent over—you had to do like a history or rental history or something like that—that was on there. So I had to go down to Springfield and explain my story, explain what happened [in my subsidized St. Louis apartment] and now I'm waiting for a determination, to see if I'll get subsidized housing there. —Amy

Other women were not so successful and did lose their low-income housing eligibility or Section 8 certification. One was told that the waiting list to obtain another Section 8 certificate was now ten years long.

Eviction can set off a chain of negative events from which it is hard to recover. Many of our study participants lost all of their personal possessions when they were evicted, either because they had no time or means with which to take their belongings with them on short notice or because the landlords dumped them on the curb and passersby pilfered them. Some told us that once they were evicted, they could no longer go to work because of the extreme stress and/or the time required to find new housing right away.

For some of the women we spoke with, eviction exacerbated physical illnesses by making it difficult to get health care. For example, when we interviewed Bobbie, she was wearing a

medical boot from surgery. She explained that she had diabetes and, after her eviction, wasn't able to get the medical care she needed for her foot, so some sores had become infected:

[D]uring that time when [I was homeless and] I first started getting the blisters and all that, they wanted to send a home health nurse out. Well I couldn't get a home health nurse because I didn't have any address to send a home health nurse in, to take her, you know, to come out and make sure to check my blood and do whatever it was supposed to be done. I couldn't *get* that because I didn't have an address. *—Bobbie*

Besides physical problems, the nuisance law can also compound problems of mental illness by putting stable housing out of reach. For several participants, eviction triggered or exacerbated existing mental health problems, making it hard for them to function effectively. And this was in addition to the trauma from the abuse they had suffered at the hands of their partners. For example, Dee, who had previously been hospitalized for mental illness, told us that flashbacks from the abuse coupled with her inability to find stable housing after the nuisance eviction was making it very hard for her to cope. Similarly, Dean described the way in which eviction compounded the trauma of the abuse for her. She had been raped by her abuser and then evicted because of the nuisance ordinance, which caused her to fall into a deep depression and try to commit suicide: "[B]y then, well, I was trying to black out what had happened with the rape. I didn't want to think about that and the fact that I was being evicted."

There were a number of cases in which the women had avoided eviction so far, but felt compelled to move anyway. Some refused to continue living in a place where they were not allowed to call 911. Kim described her reasons for moving this way:

I'm not gonna live nowhere that I can't call the police. ... [S]omebody might be trying to break in and it might not be no boyfriend. See what I'm saying? Somebody might try to break in on me and my kids and I can't protect myself? *—Kim*

Others felt forced to move because they feared they would be evicted and wanted to avoid the negative consequences of a nuisance eviction. For example, Danielle was highly aware of the long-term impact that eviction would have on her low-income housing eligibility: "But if I lose this apartment, then I won't ever be able to get into another low income apartment and I have one more violation to get [before I am evicted]." The one man we interviewed, Darrell, had taken in a female relative fleeing intimate partner abuse, but after 911 was called when the abuser showed up, Darrell felt compelled to make her move out because he couldn't afford to get another apartment if he were to be evicted:

I had an alternative by the landlord, either I get rid of the problem, which I hate to say, I had to try to find somewhere for my relative to go because if I didn't eliminate the problem, I would have had to leave.... Either I leave or the problem left. [Interviewer: So it sounds like you had to ask your relative to leave?] Right. Right. I had to find a place. She end up movin' out of state to Illinois with another relative of ours. *—Darrell*

### **A Double-bind for Tenants**

Multiple women told us that the nuisance law put them in a double bind in which no matter what action they take, they are at risk of eviction. In order to prevent more 911 calls, some landlords told the tenants that the abuser was now banned from their property. In practice, this meant to the women that if their abusers showed up at their apartments again, they would be evicted, but the women had no way to keep their abusers away without calling 911, which would itself trigger eviction under the nuisance ordinance. In this situation, even the victim's choice to stop calling 911 did not necessarily protect her from eviction. This is how Danielle described it:

I came to the office to renew my lease and they were like, "The landlord needs to have a meeting with you Monday." And I came in and they were talking about the police cars coming and they told me they put him on the banned list. And I told them that I can't control him coming to my house. He's popping up in my house. It's not like it's got a guarded gate. So I can hear him knock on the door and I come and it's him. I have to call the police to protect myself. And basically they told me, "You can't call the police or you're going to lose your apartment." And they gave me two violations, and I have one more to get and I lose my apartment. –*Danielle*

Amy found herself in the same double-bind:

[The property managers] ... tell me ... [h]e's not supposed to be living here. He needs to stay off the property. If he comes on the property again, you will be violating [the terms of the lease, so will be evicted]. And then it comes down to, if he comes on the property again, I'm gonna have to call the police, so I'm gonna be violating either way it goes.... –*Amy*

The upshot was that, as Stephanie pointed out, the victim was expected to control the abuser's behavior by herself, including stopping his violence:

Well, it seem like with the nuisance thing, you have to deal with, you know, the situation like my ex-boyfriend, or whatever. [The landlord] come over and tell me I have to deal with that. Or just pray he don't kill me or anything because if I call the police, they're going to contact my landlord and then I'll probably be homeless. –*Stephanie*

### **Participants' Ability to Call 911**

A few of the women we spoke with told us that they would continue to call 911 regardless of the nuisance property law's sanctions because their own safety, along with their children's, came first. All of these women had either ended their relationships with their abusers or were planning to do so. However, the vast majority of the women told us they had stopped calling 911 because they feared the negative repercussions. This is the "devil's bargain" that Desmond and Valdez (2013) described. Most were afraid of being evicted. Some said that they were afraid of being prosecuted and fined:

[The law] makes me not want to call anymore. I mean 'cause if I'm gonna be charged for something that I have not done, that I thought was legal for me to do, within my legal

rights. You know. And now I'm being prosecuted for using this [emergency 911 service].... –*Tina2*

Another participant, Tina,<sup>4</sup> held off calling as long as possible because she had already been evicted once under the nuisance property law and didn't want to lose another apartment:

I called the police and I said, "I just had to call the police because he caught me comin' in or out of my apartment like three days in a row and jumped on me." I was all upset. I can't take any more. I can't even open my door to go out for work, and he's attackin' me. He's hidin' in the bushes.... [The police officer] told me, "He jumped on you three days in a row and you're just now callin' us? Why didn't you call the first day?" And that's when I told her, "I lost my apartment because of the nuisance law. I'm scared to call the police. That's how I lost the other apartment, so I'm tryin' not to call the police." –*Tina*

Several women told us that they would only be willing to call 911 in dire circumstances, which most described as life-or-death situations. For example, Bobbie said, "Well, if it's a life endanger situation with me ... I will call anyway." Tina2 put it this way: "I don't want to call, I mean in any situation. Unless, of course somebody is actually dying or something, or where I'm in dire, dire need. But it would be a last resort."

### **Women's Sense of Safety**

Not having access to police services increased these women's fears that they would be physically harmed by their abusers. Besides being more vulnerable to the usual level of abuse, some women said that, once their abusers found out they could no longer call the police, the abuse became even worse because the abuser felt unconstrained:

He punched me in my face and I fell over the chair, broke the chair. He tried to choke me to death, but somehow, some reason, I was able, where I had nails and try to scratch, to get him off of me, he's choking me. And I couldn't call the police. Everything that has been going on, can't call the police. So I think [my boyfriend] is taking advantage of that. –*Cindy*

The women we spoke with told us about various strategies they either had adopted or planned to in order to protect themselves from their abusers in the absence of police services. Some felt they might have to use physical force to defend themselves:

Then I started thinkin about, "...If it gets too bad where he decide to, he want to physically hurt me, that this is what I'm gonna do to protect me and the children."... [Interviewer: So what were you thinking of doing to protect you?] I mean I'm gonna tell you for real, Gretchen, I'm talking about catchin' him asleep. –*Diane*

A few women told us they had asked their adult sons or brothers to come stay with them to keep the abuser away, effectively serving as personal body guards. One woman felt unable to do this, however, because she was afraid that her father and brothers would kill her former partner if they found out about the abuse.

For many women, the police had been their sole source of protection from the abusers' physical violence. So it was logical that multiple women spoke of barricading themselves in their homes for protection, since they no longer have access to police services. For example, Stephanie told us,

"I'm barricading myself more in the house, you know. Like put sticks and stuff behind the door and stuff because I don't want anybody coming in there. Then if they do, you know, I'll be scared to call the police or whatever." –*Stephanie*

After her abuser attacked her with a knife, Chicken's strategy was to seek the assistance from a hospital that she no longer could get from the police:

Instead of my callin' the police this time, I went straight to the hospital. That's what I did, because from there, the hospital had to call the police. They had to call the caseworker. They had to write this up as a domestic assault with a weapon. I was bleedin' from the head, the legs. –*Chicken*

### **The Role of Landlords**

Landlords were often the first and only source of information about the nuisance property law for these women. Because the law officially sanctions property owners for excessive 911 calls, city prosecutors nearly always communicated solely with the landlords about possible fines or other sanctions and how to avoid them--rarely was information given directly to a tenant. These landlords, then, turned around and told the tenants that the police and/or prosecutors were threatening to take control of their property if they didn't evict them, even though many also expressed sympathy to the tenants for their plight.

Whether out of their own sense of urgency or because they wanted to impress upon tenants the seriousness of the situation, landlords told several of the women we spoke with that they now lived in a "nuisance building" and could not call 911 for *any* reason, including domestic violence, other types of crime, or even a medical emergency. This is consistent with the ACLU Women's Rights Project (2015) finding that nuisance laws deter people from calling 911 for a wide variety of different types of crime. As Crystal told us,

If somebody breaks in my house, I feel like I can't call the police. I feel like I can't call for anything! I feel like I'm going to get in trouble for it. ...That's basically what the landlord told me. "If you call the police, you're going to lose your apartment." –*Crystal*

Since many of these women lived in high-crime areas or had family members with medical problems, this was especially serious. Yoyo described the high cost of losing police and medical services this way:

Well, where I moved at, you cannot count on no police for help. If you getting abused, raped, stabbed, shot, you're not allowed to call the police 'cause they say it's a nuisance law. But I feel if you need the police, you supposed to CALL the police, you know? But

they said if we call the police, we was gonna get evicted from our homes. And I don't think that's right. [Interviewer: And did you call the police?] Yes, I had to. I was getting abused and my door got kicked open. I need the police assistance, I couldn't do nothin', I couldn't help myself, so I dialed 911 and in the process of doing that, they contact my landlord and told him I called the police. And my landlord said I don't have no more times to call the police. ... And I have a daughter that has Crohn's and is pregnant. And [the landlord] said I can't call an ambulance because the police come with the ambulance.... So I just don't feel-- We just in danger. If anything happen to us, we can't call no police. We just got to deal with it. And I don't think that's right. –Yoyo

As an alternative, several landlords told these women to "go down the block" to call 911 so that their home addresses wouldn't be recorded as the location of the calls. All of these women told us that this was unreasonable and unworkable, and would make them even more vulnerable to violence. As Tasha put it,

"So that was like makin' me real unsafe because if he [abuser] left and then I try to leave to go somewhere to call the police and he catch me outside, then that's like endangerin' myself even more." –Tasha

Kim succinctly evaluated her landlord's directive this way:

...[T]he landlord came by my house and told me that if I called again, that he was threatenin' to put me out, that I have to go down the street or somewhere to call. Because he can lose his property. [Interviewer: Did that seem like an option for you?] No.... What if I can't make it down the street to call or he's outside waitin' for me? That's CRAZY! –Kim

### **The Focus of Enforcement Is on the Victim's Behavior, Not the Abuse**

The women we spoke with pointed out that the nuisance property law has the perverse effect of treating the victim of domestic violence as if *she's* the problem instead of the abuser and his behavior. This is reinforced at every step of the enforcement process, including the police response to 911 calls, the Cease and Desist letter's formal notification of potential violations, and the hearings with municipal prosecutors. Many women pointed out that this shift in focus ends up obscuring the real crime of intimate partner violence and protecting the perpetrator. This is how Dean put it:

I think that [the police] basically just look at YOU like you're the nuisance, even though you didn't start it. To me, it seems like they'd rather protect the guy that did it to you than be bothered with you calling. –Dean

That their 911 calls for help in the face of serious violence were called a "nuisance" was especially galling to some women. Diane described her incredulity when she received the Cease and Desist letter from the city prosecutors' office:

Like I said, when the letter came, to me that was like, “We hear you but we really don’t care about all of the-- We don’t care!” That’s what I heard from the letter when I read it. It was like, “We don’t care.” It was like they were standin’ off on this. To me, that’s what I heard, “We don’t care.” ... “You a nuisance. You all are nuisance to us. Keep callin’ us out there and you know it’s just, it’s an ordinance now, it’s against the law.” I never heard no stuff like that [before]. To me, that’s ridiculous. ... Why would they come up with somethin’ like that? I mean I can’t understand. I mean ... why would you even want to put somethin’ like that out there when you know that, you know, domestic violence is real and it *happens*, you know? So why would you say--what if you out there fifteen times? Twenty times? What difference does it make? *–Diane*

The legal enforcement proceedings similarly tend to focus on scrutinizing the victim's behavior and ignoring that of the abuser. Chicken, who lived in a municipality in St. Louis County, had an especially disturbing experience when she was summoned to appear at a nuisance hearing with the local authorities. When they asked about the 911 calls for domestic violence, they weren't interested in hearing about how she was fighting back in self-defense against her abuser's attacks:

They had the police [officers] there that were called to my home, and one of the officers, they only stated what I was doin'. They didn't state what, what they were called there for and what he was doin' to me. ... They were questioning about me. Everything was on *me*. ... [Interviewer: So it sounds like when you were in court that the only thing that was talked about ... was what *you* had done.] Right and trying to prevent, you know keepin' me from getting hurt. Not saying what he was doing when the doors were kicked off the hinges. They didn't bring that up. When they come in and my mouth was busted, they didn't bring that up. It was only about what *I* was doin' in my house, who *I* was tryin' to harm. But I was really tryin' to protect myself. *–Chicken*

Chicken found it incomprehensible that the authorities were only concerned with her behavior and didn't take into account the context of the life-threatening abuse to which she was reacting. She went on to point out the impossible situation that the nuisance property law put her in:

If I can't protect myself, [and] you're not protecting me, what am I supposed to do? Am I supposed to just ... let him beat me or let him kill me? *–Chicken*

### **Discussion and Conclusion**

This study shines a light on several of the ways in which nuisance property laws can harm battered women. The single most serious direct harm involves women's access to housing. Both Desmond and Valdez (2013) and the ACLU Women's Rights Project report (2015) found that landlords were pressured to evict "nuisance" tenants, but neither study collected data about how this affected the tenants' lives after eviction. Many of the women we interviewed were evicted from their homes. The consequences were quite serious for these low-income women and their children: many became homeless and had to go to shelters or seek temporary refuge in the homes of friends or family members; some were separated from their children during this period

of unstable housing; and some ended up in even more dangerous living situations. The record of a nuisance eviction made it especially difficult for these women to secure stable housing afterwards, and threatened their eligibility for low-income housing or Section 8 certification. The health consequences were equally grave. Some women found it impossible to access routine medical care for chronic conditions while they were homeless. For others, the eviction itself triggered or exacerbated mental illnesses and compounded the trauma from the intimate partner violence. Many women lost their personal possessions as a result of eviction and some lost their jobs. And even many of those women who had not yet been evicted because of a nuisance ordinance felt forced to move because they feared the negative consequences if they were evicted.

Nuisance property laws also had serious consequences for these women's safety. Nearly all felt they could no longer call 911 for help. This increased their vulnerability to violence in multiple ways. To begin with, they now had no police protection from the usual level of their abusers' violence. Moreover, in some cases, the women believed their abusers had already or would become even more violent once they knew the police wouldn't be called. And in some cases, the women felt they would have no choice but to use violence to defend themselves. As a result, the lack of access to police protection was likely to lead to an escalation of violence in these relationships, either on the part of the abuser or the victim or both. Many women were also told by their landlords that they could not call 911 for *any* reason, which increased their sense of vulnerability to other types of crime and medical emergencies, along with the violence from their partners. As the ACLU Women's Rights Project report (2015) points out, nuisance laws deter the reporting of all types of crime and undermine the safety not only of battered women but of all members of a community.

Another way to look at these harms is through the lens of Jill Davies' (1998) framework of the risks battered women face. In many of these cases, nuisance property laws served to trigger adverse events for which the women were already at risk. Battered women risk harm not only from their partners' physical violence but also from the women's own life circumstances, which Davies terms "life-generated risks." The harms described in this study involved both kinds of risks. The life-generated risks the women in this study faced derived from their poverty, dependence on housing subsidies, dangerous neighborhoods, resource-poor social support networks, already-compromised physical and mental health, and--although none volunteered this--the potential racial discrimination they faced in housing.<sup>5</sup> These were in addition to possible increased violence by their partners. Nuisance property laws interacted with all of these batterer- and life-generated risks to intensify the women's vulnerability to harm.

As Fais notes, these laws not only undermine battered women's safety but they also run counter to other government policies that are intended to address domestic violence, including mandatory arrest, evidence-based prosecution, and the housing protections in the Violence Against Women Act (Fais 2008). It is clear from these women's stories that, far from helping battered women, nuisance laws exacerbate the unequal relations of power between the abuser and the victim. The vast majority of abusive intimate partner relationships are heterosexual ones in which the man exercises control over the woman. Nuisance laws can deprive a woman of what little means she may have for exerting control over the terms of the relationship. Denying her access to police protection limits the victim's ability to marshal institutional constraints on the

abuser's power and leaves her on her own to deal with his violence. And the abuser is given even more power when a landlord--in response to law enforcement threats--bans him from the property in order to prevent more 911 calls. If the abuser chooses to show up anyway, she will be evicted either because she cannot get rid of him herself or because she calls 911 to remove him. This immobilizes the victim in a double bind and gives the abuser an additional weapon with which to harass and control his victim. By taking away her access to police services, nuisance property laws magnify the abuser's power to strip her of the ability to make decisions and take control over some of the most basic conditions of life, such as where and how she lives.

The findings in this study show how nuisance laws and the enforcement process are both designed to focus attention on the victim's calls to 911 for help rather than on the abuser's violence that precipitated it. As Fais (2008) anticipated, this puts the women in a situation where *they* are held responsible for stopping the abuser's violence but are denied the most basic institutional supports for doing so. And if they ask for help anyway, the law punishes the victim rather than the abuser, thus intensifying the oppression of a group who is already rendered relatively powerless because of gender-based violence. Because these laws constitute multiple calls to the police as the problem and downgrade the actual domestic violence to a "nuisance," they drastically alter the categories of "victim" and "offender. The result is that *nuisance property laws obscure the real crime of intimate partner violence and turn the victim into the offender.*

Nuisance property laws deny public services to those vulnerable populations who most need them (ACLU Women's Rights Project, 2015). The women in this study occupied a social location at the intersection of multiple dimensions of inequality, including gender, race, and class. Because they were predominantly poor and black and subject to a number of batterer- and life-generated risks, the women were especially vulnerable to being harmed by nuisance laws. By listening to the voices of these battered women, the ways in which nuisance laws penalize victims of domestic violence and exacerbate gender, race, and class inequality come into sharper focus. Our hope is that once people better understand how nuisance property laws impact these battered women, we can move toward informing police and prosecutors, reforming nuisance laws, and using the legal system to promote rather than undermine social justice.

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### Endnotes

<sup>1</sup> While other terms such as "survivor" and "intimate partner violence" are available, the terms "victim," "abuser," and "domestic violence" were chosen for use here because these are common in a legal context.

<sup>2</sup> While there are some variations in the ordinances and enforcement processes among the ninety municipalities in St. Louis County, for the topics covered in this article their nuisance property laws work essentially the same way as does the one in St. Louis City, which is in a separate jurisdiction.

<sup>3</sup> Throughout the article, each interviewee is identified by the alias that s/he chose.

<sup>4</sup> Since two women chose to use the alias "Tina," they are identified as "Tina" and Tina2."

<sup>5</sup> There is research that suggests people who perceive discrimination against themselves are "often reluctant to make this claim publicly ... in part" because claimants are "viewed negatively by others even when the claim is well justified" (Major & Kaiser, 2002, p. 285). In fact, when we asked interviewees if they thought their race or class affected the way they were treated by the police, many prefaced their "yes" answers by stating that they themselves were not racist, indicating that they were trying to preempt such a negative perception. This is consistent with Major and Kaiser's claim. In any event, we did not ask anyone about whether they felt their race affected their ability to obtain housing, and no one brought it up spontaneously.